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Nevada

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This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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Nevada

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Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

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EPA-450/3-78-078 Air Pollution Regulations in State Implementation Plans: Nevada

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Publication No. EPA-450/3-78-078

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED REGULATION CHANGES

NEVADA

Submittal Date	Approval Date	Description
6/12/72	7/27/72	Entire Regs. for Washoe County
1/19/73	5/14/73	Entire Regs. for Clark County
4/1/74	3/26/75	Article 1, 3, 13 for the State
6/14/74	2/6/75	Article 1, 4, 8, 14 for the State
11/12/74	3/26/75	Article 13

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52.1475	Control Strategy and Regulations: Sulfur Oxides
52.1478	Review of New Sources and Modifications (Washoe County)
52.1485	Prevention of Significant Deterioration

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- 2.0 GENERAL PROVISIONS AND ADMINISTRATIVE PROCEDURES
- 3.0 REGISTRATION CERTIFICATES, OPERATING PERMITS AND APPLICATIONS
- 4.0 AIR QUALITY STANDARDS (PRIMARY AND SECONDARY)
  - 4.1 PARTICULATES
  - 4.2 SULFUR DIOXIDE
  - 4.3 NITRIC OXIDES
  - 4.4 HYDROCARBONS
  - 4.5 CARBON MONOXIDE
  - 4.6 OXIDANTS
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- 5.0 VARIANCES
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- 7.0 EQUIPMENT MALFUNCTION AND MAINTENANCE
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  - 51.2 COAL OPERATIONS (includes Cleaning, Preparation, Coal Refuse Disposal Areas, Coke Ovens, Charcoal Kilns, Related Topics)
  - 51.3 CONSTRUCTION (includes Cement Plants, Materials Handling, Topics Related to Construction Industry)
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STATE OF NEVADA

AIR QUALITY REGULATIONS

WHEREAS, the protection of the air resources of the State is deemed necessary for (1) the protection of the health, safety and well-being of its citizens, (2) the prevention of injury to plant and animal life and to the property, (3) the protection of the comfort and convenience of the public and the protection of the recreational resources of the State, (4) for the preservation of visibility and scenic, esthetic and historical values of the State; and

WHEREAS, the problem of air quality in this State is closely related to the problem of air quality in adjoining states; and

WHEREAS, Nevada Revised Statutes direct the adoption and enforcement of reasonable rules and regulations, and clearly reveal that is is the public policy of the State to preserve the air resources of the State, and to protect, maintain and improve the quality thereof; and to cooperate with other agencies of the State, agencies of other states and the federal government in carrying out these objectives; and

WHEREAS, with the advancement of technology, these regulations will be subject to revision and amendment;

NOW, THEREFORE, the Nevada State Commission of Environmental Protection adopts the following regulations:

(1.0) ARTICLE 1: DEFINITIONS

1.1 Air-conditioning equipment. Equipment utilized to heat or cool the interior of a building or structure.

1.1 Air contaminant. Any substance discharged into the atmosphere except water vapor and water droplets.

1.3 Air pollution. The presence in the outdoor atmosphere of one or more air contaminant or any combination thereof in such quantity and duration as may tend to:

1.3.1 Injure human health or welfare, animal or plant life, or property.

1.3.2 Limit visibility or interfere with scenic, esthetic, and historic values of the State.

1.3.3 Interfere with the enjoyment of life or property.

1.4 Ambient air. That portion of the atmosphere surrounding people, animal and plant life.

1.5 Atmosphere. All of the air surrounding the earth and external to buildings and structures.

1.6 British thermal units - BTU. That quantity of heat required to raise the temperature of one pound of water from 62° Fahrenheit to 63° Fahrenheit.

1.7 Combustible refuse. Any waste material which can be consumed by combustion.

1.8 Commercial fuel oil. A liquid or liquefiable petroleum product normally produced, manufactured, used, or sold for the purpose of creating useful heat.

1.9 Commission. The State Commission of Environmental Protection.

1.10 Confidential information. Information or record which:

1.10.1 Relate to quantities or dollar amount of production or sales; or

1.10.2 Relate to processes or production unique to the owner or operator; or

1.10.3 Would tend to affect adversely the competitive position of the owner or operator, if disclosed.

1.11 Control officer. The Chief of the Bureau of Environmental Health of the Health Division of the Department of Health, Welfare and

Rehabilitation or his representative, or a person designated by or pursuant to a county or city ordinance or regional agreement or regulation to enforce air quality control ordinances or regulations.

1.12 Diesel fuel. Low viscosity oil normally used in compression ignition engines.

1.13 Dusts. Particulate matter released into ambient air by natural, mechanical, or chemical forces or processes.

1.14 Effective date. Thirty days after these regulations or amendments to these regulations have been filed with the Secretary of State.

1.15 Emission. The act of passing into the atmosphere an air contaminant or a gas stream which contains, or may contain, an air contaminant; or the material passed to the atmosphere.

1.16 Existing source. Equipment, machines, devices, articles, contrivances, or installations which are constructed, purchased, or in operation on the effective date of these regulations; except that any existing equipment, machine, device, article, contrivance, or installation which is altered, replaced, or rebuilt which increases the total emission after the effective date of these regulations shall be reclassified as a "new source".

1.17 Fuel. Any form of combustible matter (solid, liquid, vapor, or gas), excluding combustible refuse.

1.18 Fuel burning equipment. Any device used for the burning of fuel for the primary purpose of producing heat or power by indirect heat transfer.

1.19 Garbage. Putrescible animal or vegetable refuse.

1.20 Hearing board. The State Environmental Protection Hearing Board.

1.21 Incinerator. An engineered apparatus capable of withstanding heat and designed to efficiently reduce solid, semi-solid, liquid, or gaseous waste at specified rates, and from which the residues contain little or no combustible material.

1.22 Local air pollution control agency. Any city, county, or district air pollution control agency approved by the Commission.

1.23 Motor vehicle. Every device in, upon, or by which any person or property is, or may be transported or drawn upon a paved roadway, except devices moved by human or animal power or used exclusively upon stationary rails.

1.24 Multiple chamber incinerator. Any article, machine, equipment, contrivance, structure, or part of a structure used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.

1.25 Light duty motor vehicle. Any motor vehicle either designed primarily for transportation of property and rated at 2,721 kilograms (6,000 pounds) GVW or less or designed primarily for transportation of persons and having a capacity of 12 persons or less, or any motor vehicle designed primarily for purposes of transporting persons and property and rated by the manufacturer at 2,721 kilograms (6,000 pounds) GVW or less.

1.26 Nuisance. Anything which is injurious to health, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

1.27 Odor. A characteristic of an air contaminant which makes it perceptible to the sense of smell.

1.28 Opacity. The property of a substance tending to obscure vision and measured in terms of percent obscuration. The relationship between opacity and Ringelmann number is approximately equal to the following in shades of white to gray.

Opacity (percent)	Ringelmann No.
20	1
40	2
60	3
80	4
100	5

1.29 Open burning. Any fire from which the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney, or other device approved by the control officer.

1.30 Operating permit. A document issued and signed by the control officer, approving with, or without restrictions, the operation of a new or existing single source of air contaminant.

1.31 Particulate matter. Any material except uncombined water that exists in a finely divided form as a liquid or solid at reference conditions.

1.32 Pathological wastes. Human and animal remains, consisting of carcasses, organs, and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds and similar sources.

1.33 Person. The State of Nevada, any individual, group of individuals, partnership, firm, company, corporation, association, trust, estate, political subdivision, administrative agency, public or quasi-public corporation, or other legal entity.

1.34 Process weight. The total weight of all materials introduced into a single source operation, including solid fuels, but excluding liquids and gases used solely as fuels and air introduced for purposes of combustion of the fuel.

1.35 Process weight rate. A rate established as follows:

1.35.1 For continuous or long-run steady-state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portions thereof.

1.35.2 For cyclical or batch unit operations or unit processes the total process weight for a period that covers a complete operation or an integral number of cycles divided by the number of hours of actual process operation during such a period.

1.35.3 Where the nature of any process, operation, or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value of allowable emission shall apply.

1.36 Process equipment. Any equipment used for storing, handling, transporting, processing or changing any material, excluding that equipment specifically defined in these regulations as fuel-burning equipment or incinerators.

1.37 Reference conditions. All measurements of ambient air quality are corrected to a reference temperature of 25°C. and to a reference pressure of 760 millimeters of mercury (1,013.2 millibars).

1.38 Registration certificate. A document issued and signed by the control officer, certifying adequate empirical data for the single source has been received.

1.39 Ringelmann chart. The chart published by the U. S. Bureau of Mines which illustrates graduated shades of grey to black for use in estimating the light obscuring capacity of smoke.

1.40 Salvage operation. Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

1.41 Single source. All similar process operations located at a single plant which can technically and economically be replaced by a single piece of equipment that performs the same function.

1.42 Smoke. Small particles consisting predominantly, but not exclusively, of carbon, ash, and other combustible material, resulting from incomplete combustion.

1.43 Source. Anything which emits any air contaminant to the atmosphere.

1.44 Registration certificate. A document issued and signed by the Director certifying adequate empirical data for the single or complex source has been received and shall constitute approval of location.

1.45 Stack or chimney. Any flue, conduit, or duct arranged to conduct an air contaminant to the atmosphere.

1.46 Stop order. A written notice by the control officer served on a person or persons engaged in the doing or causing the construction, installation or alteration of work involving an air contaminant source or sources ordering such work to be stopped.

1.47 Submerged fill pipe. Any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge opening of which is entirely submerged when the liquid level is two times the fill pipe diameter above the bottom of the tank.

1.48 Uncombined water. Visible mist or condensed water vapor.

1.49 Volatile organic compounds. Any compound, containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element, which has a vapor pressure of 1.5 pounds per square inch absolute, or greater, under actual storage conditions.

1.50 Waste. Useless, unneeded, or superfluous matter; discarded or excess material.

1.51 Wet Garbage. Any combination of waste and garbage which contains greater than 50 percent moisture.

1.59 Complex source. Any property or facility that has or solicits secondary or adjunctive activity which emits or may emit any air contaminant for which there is an ambient air quality standard, notwithstanding that such property or facility may not itself possess the capability of emitting such air contaminants. Complex sources include, but are not limited to:

a. Shopping centers;

b. Sports complexes;

c. Drive-in theaters;

d. Parking lots and garages;

e. Residential, commercial, industrial or institutional developments;

f. Amusement parks and recreational areas;

g. Highways;

h. Sewer, water, power and gas lines;

and other such property or facilities which will result in increased air contaminant emissions from motor vehicles.

1.60 Vehicle trip. A single movement by a motor vehicle which originates or terminates at the single or complex source.

1.61 Contiguous property. Any property which is in physical contact, touching, near or adjoining. Public property or public right-of-way shall not be deemed as a break in any contiguous property.

1.67 GVW, Gross Vehicle Weight. The manufacturer's gross weight rating for the individual vehicle.

(2.0) ARTICLE 2: GENERAL PROVISIONS

2.1 Severability:

2.1.1 These regulations and their various portions are severable. Should any portion thereof be declared invalid or unconstitutional it shall not affect any other portion.

2.2 Circumvention:

2.2.1 Except for the sole purpose of reducing the odor of an emission no person shall install, construct, or use any device which conceals any emission without resulting in a reduction in the total release of air contaminants to the atmosphere.

2.3 Written Notice:

2.3.1 Written notice shall be deemed to have been served, if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.

(8.0) 2.4 Emergency Procedure:

2.4.1 Without limiting the authority of any State officer to declare or to act on an emergency, the control officer or local air pollution control agency upon determining that a generalized condition of air pollution exists or that the emission from one or more single sources of air contaminants is causing a danger to human health or safety may order persons causing or contributing to the air pollution to immediately reduce or discontinue all emission of contaminants.

2.4.2 The order shall fix a time within 24 hours of issuance and a place for an appeal before the hearing board.

2.4.3 Within 24 hours after the completion of the hearing, the hearing board shall decide the appeal and may recommend the affirmance, modification, or reversal of the order.

(7.0) (9.0) 2.5 Scheduled Maintenance, Testing, and Breakdown or Upset:

2.5.1 Scheduled maintenance, testing approved by the control officer, or repairs which may result in emissions of air contaminants prohibited by these regulations shall be performed during a time designated by the control officer as being favorable for atmospheric ventilation.

2.5.2 The control officer shall be notified in writing on the time and expected duration at least 24 hours in advance of any scheduled maintenance which may result in emission of air contaminants prohibited by these regulations.

2.5.3 The control officer shall be notified within 24 hours after any breakdown or upset.

2.5.4 Breakdown or upset, determined by the control officer to be unavoidable and not the result of careless or marginal operations, shall not be considered a violation of these regulations.

(9.0) 2.6 Testing and Sampling:

2.6.1 To determine compliance with these regulations, the control officer may either conduct or order the owner of any source to conduct or have conducted such testing and sampling as the control officer determines necessary.

2.6.2 All testing and sampling will be performed in accordance with recognized methods and as specified by the control officer.

2.6.3 The cost of all testing and sampling and the cost of all sampling holes, scaffolding, electric power, and other pertinent allied facilities as may be required and specified in writing by the control officer shall be provided and paid for by the owner of the source.

2.6.4 All information and analytical results of testing and sampling shall be provided to both the owner and the control officer.

2.7.2 Confidential information can be used in the prosecution of a violation of any air pollution control statute, ordinance or regulation.

2.7.3 Any person who discloses or knowingly uses confidential information in violation of these regulations is guilty of a misdemeanor and shall be liable in tort for any damages which may result from such disclosure or use.

(2.0) 2.8 Administrative Fines:

2.8.1 Any violation of a provision of these regulations except 2.7.3 and Article II is subject to an administrative fine levied by the Commission or an approved local control agency of not more than $5,000 per violation.

2.8.2 Unless otherwise provided herein all violations shall be classified as a major violation and a fine up to $5,000 per occurrence may be levied.

2.8.3 Violations of Articles 5, 6, 7.3, 9.1, or 10 shall be classified as a minor or lesser violation, unless there are four or more violations of any one of these articles by a person occurring in twelve consecutive months.

2.8.4 Minor Violation Fine Schedule:

	First Offense	Second Offense	Third Offense
Article 5, Open Burning	$25	$50	$100
Article 6, Incinerator Burning			
Equal to or less than 25 pounds per hour	$25	$50	$100
Greater than 25 pounds per hour	$50	$100	$200
Article 7, Fugitive Dust	$50	$100	$200
Article 9.1, Storage of less than 40,000 gallons	$50	$100	$200
Article 10, Odors	$50	$100	$200

All minor violations shall become major violations upon the occurrence of the fourth violation in any twelve consecutive months.

2.8.5 Procedure for paying minor violations in lieu of appearing before the hearing board:

2.8.5.1 Submit amount in accordance with minor fine schedule within ten days after issuance of citation.

2.8.5.2 Cashiers checks, certified checks, or money orders should be made payable to the county in which the violation occurs.

2.8.6 Each day that a violation continues shall constitute a separate violation.

2.8.7 All administrative fines collected by the Commission pursuant to these regulations shall inure to and be deposited in the general fund of the county in which the violation occurred.

2.9 Time for Compliance:

2.9.1 All new sources after the effective date of these regulations shall comply with these State regulations.

2.9.2 All existing industrial sources which require an operating permit shall:

a) Be in compliance with these regulations within 3 months after the effective date of these regulations, or

b) Have submitted a compliance schedule for approval by the Commission within 3 months after the effective date of these regulations.

2.9.3 The Commission shall approve, modify, or reject the submitted compliance schedule within 60 days after submission. Thirty (30) days after the rejection of a compliance schedule the source shall be considered to be in violation of these regulations unless they have a modified compliance schedule approved by the Commission.

2.9.3.1 Compliance schedules shall contain specific progress steps that will be taken toward achieving compliance.

2.9.3.2 The Commission may require periodic reports on each phase of progress under approved compliance schedules. Failure at any phase to make diligent and reasonable progress toward compliance with the approved compliance schedule shall be deemed an unreasonable delay and shall subject the operator of the source to administrative fines as provided in Article 2.8.2 of these regulations.

2.9.4 In approving compliance schedules, the Commission shall take into consideration the social and economic impact of the schedule, including, but not limited to, impact on availability of fuels, energy, transportation and employment.

2.9.5 When in the opinion of the control officer there is a violation of any provision of these regulations, or approved compliance schedule, he shall cause a written notice to be served upon the person responsible for the alleged violation.

2.9.6 The written notice shall specify the provision of these regulations or the approved compliance schedule that is being violated and the facts constituting the alleged violation. It may include an order to take corrective action or submission of a schedule for compliance within a specified reasonable time. Such order shall become final unless within 10 calendar days after service of the written notice, the person named in the order requests a hearing board.

2.9.7 The control officer may require the person to appear before the hearing board at a specified time or place or the Commission may initiate action to levy the appropriate fine.

(2.0) 2.10 Appeals of the Control Officer's Action:

2.10.1 Any person aggrieved by:

2.10.1.1 The issuance, denial, renewal, suspension or revocation of an operating permit; or

2.10.1.2 The issuance, modification or rescission of any other order, by the control officer may appeal to the hearing board.

2.10.2 The hearing board shall decide the appeal, and may recommend the affirmance, modification or reversal of any action taken by the control officer which is the subject of the appeal.

2.10.3 The hearing board shall provide, by rule, for the time and manner in which appeals are to be taken to the Board.

2.10.4 Application forms for appeal shall be obtained from the control officer.

(5.0) 2.11 Variances:

2.11.1 The owner or operator of a source of air contaminant or a person who desires to establish such a source may apply to the Commission for a variance from its applicable regulations. The Commission may grant a variance only if, after public hearings on due notice, it finds from a preponderance of the evidence that:

2.11.1.1 The emissions occurring or proposed do not endanger or tend to endanger human health or safety; and

2.11.1.2 Compliance with the regulations would produce serious hardship without equal or greater benefits to the public.

2.11.2 A variance shall not be granted unless the Commission has considered the relative interest of first, the public; second, other owners of property likely to be affected by the emission; and last, the applicant.

2.11.3 The Commission may in granting a variance impose appropriate conditions upon an applicant, and may revoke the variance for failure to comply.

2.11.4 A variance may be renewed only under circumstances and upon conditions which would justify its original granting.

2.11.4.1 Application for any renewal must be made at least 60 days prior to expiration of the variance to be renewed, and the Commission shall give public notice of the application.

2.11.4.2 If a protest is filed with the Commission against the renewal, the Commission shall hold a public hearing and shall not renew the variance unless it makes specific written findings of fact which justify the renewal.

2.11.5.1 The following limitations of duration apply to all variances.

2.11.5.1.1 If the variance is granted because no practical means is known or available for prevention, abatement or control of the air pollution involved, the variance shall continue only until such means become known and available.

2.11.5.1.2 If the variance is granted because compliance with applicable regulations will require measures which, because of extent or cost, must be spread over a period of time, the variance shall be granted only for the requisite period as determined by the Commission and shall specify the time when the successive steps are to be taken.

2.11.5.1.3 If the variance is granted for any other reason, it shall be granted for one year or less.

2.11.5.2 A variance whose duration is limited by paragraph 2.11.5.1.1 or 2.11.5.1.2 shall be reviewed at least once each year to determine whether practical measures have become available or required steps have been taken.

2.11.6.1 No applicant is entitled to the granting or renewal of a variance as of right.

2.11.6.2 Judicial review may be had of the granting or denial of a variance as provided in Chapter 445 of Nevada Revised Statutes.

2.11.7 Judicial review of all decisions of the Commission shall involve a trial de novo.

(3.0) (2.0) ARTICLE 3: REGISTRATION CERTIFICATES AND OPERATING PERMITS

3.1 General:

3.1.1 A registration certificate and an operating permit are required for all new single sources except as exempted.

3.1.2 An existing single source requires only an operating permit except as exempted.

3.1.3 Registration certificates and operating permits are non-transferable from person to person or source to source.

3.1.4 U. S. Registered or Certified Postmark date shall establish the official date of all applications for registration certificates and operating permits.

3.1.5 Applications for either a registration certificate or an operating permit shall be made in writing to the control officer on the exact form provided by him.

3.1.6 Application forms for requesting the issuance of either a registration certificate or an operating permit can be obtained from the control officer.

3.1.7 All fees shall be paid to the State of Nevada or local agency which certified issuance of the certificate or permit, and are not refundable.

3.1.8 The following existing and new single sources do not require either registration certificates or operating permits.

a) Air conditioning equipment having a gross output rating of less than 4,000,000 BTU/hr.

b) Motor vehicles, special mobile equipment, and internal combustion engines.

c) Residential and commercial housekeeping vacuum systems.

d) Incinerators with less than 25 pounds per hour rated burning capacity.

e) Agricultural use of land.

3.1.9 Registration certificates for single and complex sources and operating permits for single sources may be issued through an approved local air pollution control program.

(3.0) 3.2 Registration Certificates:

3.2.1 A separate registration certificate is required for each new single source.

3.2.2 A valid registration certificate is a prerequisite for the construction or alteration of a source of air contaminant prior to obtaining any building permit required by local ordinances.

3.2.3 Requests for the issuance of a registration certificate or the replacement of a lost or damages registration certificate with the appropriate fee shall be submitted to the control officer on the application form provided by him.

3.2.4 Within 5 days after receiving an application for registration, the Director shall determine what, if any, additional information is needed. Within 15 days after receiving adequate information the Director shall make a preliminary determination to issue or deny issuance of a registration certificate. Within 75 days after receiving adequate information, pursuant to Article 13, the Director shall issue or deny issuance of a registration certificate.

3.2.5 A registration certificate shall only expire if construction of a new or modified source, including a complex source, is not commenced within one year from the date of issuance thereof or construction of the facility is delayed for one year after initiated.

3.2.6 The fee for each initial registration certificate, its replacement or renewal is $10.00.

(2.0) 3.3 Stop Order:

3.3.1 A stop order will be issued if:

3.3.1.1 The proposed construction, installation, alterations, or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted for registration; or

3.3.1.2 The design material or the construction itself is of such a nature that it patently cannot bring such source into compliance with these regulations.

3.3.2 A stop order can be issued at any time before the operating permit is granted, except that a stop order for a source shall not be issued after construction or modification has commenced if the construction is in accordance with the provisions of the registration certificate as submitted and approved by the Director under Article 13 hereof.

3.3.3 A person served with a stop order shall forthwith stop all activities specified in the stop order.

3.3.4 A stop order shall be a written statement stating the reason for its issuance.

3.3.5 A person served with a stop order may apply for its revocation at any time, setting forth the facts upon which he believes that the reasons for the issuance of the stop order no longer exists. If the control officer finds that the reasons for the issuance of the stop order no longer exist, he shall withdraw the order promptly. If the control officer finds that the reasons for the issuance of the stop order still exist, or that other reasons exist for continuing a stop order in effect, he shall, within 24 hours, serve a written statement of his reasons for so finding.

(3.0) 3.4 Operating Permit:

3.4.1 Ninety calendar days after the effective date of these regulations no person shall use any new or existing single source without a current operating permit except as exempted.

3.4.2 A separate operating permit is required for each new or existing single source.

3.4.3 Operating permits shall be posted conspicuously on or near the single source.

3.4.4 Operating permits shall expire and shall be subject to renewal five (5) years after the date of issuance.

3.4.5 Possession of a valid registration certificate shall be a prerequisite to obtaining the initial operating permit for a new source.

3.4.6 Application for the issuance of an initial operating permit shall be submitted in writing to the control officer on the exact form provided by him and with the appropriate fee prior to the date of the proposed use of the source.

3.4.7 An operating permit shall be granted if the control officer finds from the application and other relevant information that use of the source will not result in any violation of the air quality regulations, or if the Commission has approved a compliance schedule. A denial of an application for an operating permit shall be accompanied by a statement of the reasons therefor, and if the control officer has relied in his decision upon information not contained in the application, the statement of reasons shall identify and state the substance of such information.

3.4.8 Requests for the renewal of an operating permit shall be submitted in writing to the control officer with the appropriate fee at least thirty (30) calendar days prior to the expiration date of the current permit.

3.4.9 Requests for the replacement of a lost or damaged operating permit shall be made in writing to the control officer with the appropriate fee within thirty (30) calendar days after the date of its loss or destruction.

3.4.10 An operating permit can be revoked by the control officer upon determining that there has been a violation of these regulations. The revocation shall be effective ten days after the service of a written notice and the revoked operating permit shall be surrendered immediately unless a hearing is requested.

3.4.11 The fee for each initial operating permit is $50.00.

3.4.12 The fee for the replacement of a lost or damaged operating permit is $10.00.

3.4.13 The fee for re-issuing an operating permit for one that has been revoked or allowed to expire is $100.00.

(50.1.2) ARTICLE 4: VISIBLE EMISSIONS FROM STATIONARY SOURCES

4.1 Unless otherwise provided herein, no person shall cause, suffer, allow or permit the discharge into the atmosphere, from any stationary source, any air contaminant for a period or periods aggregating more than three minutes in any one hour, which is of an opacity equal to or greater than 10 percent.

4.2 These regulations shall not apply if the presence of uncombined water is the only reason for the failure of an emission to comply with these regulations. The burden of proof to establish the application of this exemption shall be upon the person seeking to come within this exemption.

4.3 Exceptions to this Article:

4.3.1 Smoke from the open burning set forth in Article 5.2.

4.3.2 Smoke discharged in the course of training air pollution control inspectors to observe visible emissions, if such facility has written approval of the Commission.

4.3.3 Emissions from an incinerator set forth in Article 6.

4.3.4. Emissions from any mobile equipment set forth in Article II.

4.3.5 Emissions of stationary diesel-powered engines, for not longer than 15 minutes for warm-up of cold engines to achieve operating temperatures.

4.4 Application of this Article to existing copper smelters:

4.4.1 An existing copper smelter shall submit to the Director for his review and approval information and data on an appropriate in-stack electronic detector.

4.4.2 Visible emissions shall be determined by the use of an approved in-stack mounted electronic detector, with sensitivity restricted to the visual range of the light spectrum. Approved electronic detectors shall be calibrated monthly and a summary report shall be maintained by the source and provided to the Director.

(51.13) ARTICLE 5: OPEN BURNING - Approved but does not provide for prohibition of open burning during emergency episodes. F.R. 5/14/73

5.1 The open burning of any combustible refuse, waste, garbage, oil fires, or for any salvage operations, except as specifically exempted, is prohibited.

5.2 Open burning exempted from these regulations shall consist of:

5.2.1 Open burning approved in advance by the control officer.

5.2.2 Open burning, concurred in by the control officer and authorized by an officer of the State or its political subdivisions, for the purpose of weed abatement, conservation, disease control, game or forest management, personnel training, or elimination of hazards.

5.2.3 Open burning for agricultural purposes and management in rural areas except where prohibited by the control officer.

5.2.4 Open burning at a single family residence to which no franchised collection service is available unless otherwise prohibited by local ordinances or regulations.

5.2.5 Open burning of small wood fires for recreational, educational, ceremonial, heating or cooking purposes.

5.3 All open burning must be attended and controlled at all times to eliminate fire hazards.

(51.9) ARTICLE 6: INCINERATOR BURNING

6.1 Burning in any incinerator other than the multiple chamber type or as approved by the control officer is prohibited.

6.2 Incinerator burning which produces for periods totaling one minute in any one hour a visible emission which is of an opacity equal to or greated than 20 percent is prohibited.

6.3 Unless otherwise prohibited by local ordinances or regulations the following type incinerator burning is exempted:

6.3.1 Single chamber incinerator at a single family residence located in a rural area except as prohibited by the control officer.

6.3.2 Single chamber incinerator burning in an area in which the control officer determines that no franchised garbage or waste collection service is available.

6.4 Incinerators used for the burning of pathological wastes, wet garbage, or high moisture content material shall be high temperature types with either grate or solid hearth construction, drying shelves for wet wastes, and an auxiliary heating unit to insure temperatures of 1400° Fahrenheit for not less than 0.3 of a second. The hearth shall be frequently cleaned at regular intervals to prevent buildup of residues and deposits.

6.5 The rated burning capacity, operating and maintenance procedures approved by the control officer shall be posted conspicuously on or near the incinerator.

(50.1) ARTICLE 7: PARTICULATE MATTER

(51.5) 7.1 Fuel Burning Equipment:

7.1.1 No person shall cause, suffer, allow or permit the emission of particulate matter resulting from the combustion of fuel in excess of the quantity set forth in the following table:

Heat input in millions of British thermal units per hour	Maximum allowable emission of particulate matter in pounds per hour per million British thermal units of heat input
Up to and including 10	0.600
100.	0.352
1,000.	0.207
10,000	0.0904
100,000.	0.0243

7.1.1.1 For heat inputs greater than 10 but less than 4,000 million BTU's per hour the allowable emissions shall be calculated by using the following equation:

$$Y = 1.02\ X^{-0.231}$$

7.1.1.2 For heat inputs equal to or greater than 4,000 million BTU's per hour the emissions shall be calculated by the use of the equation:

$$Y = 17.0\ X^{-0.568}$$

X = maximum equipment capacity rate in million BTU's per hour

Y = allowable rate of emission in pounds per million BTU's

7.1.2 For purposes of these regulations the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

7.1.3 Air-conditioning equipment with a maximum gross heat input of less than four million BTU's per hour shall be exempted from these regulations.

(50.1.1) 7.2 Industrial Sources:

7.2.1 Sources not otherwise included in these regulations shall not cause, suffer, allow or permit particulate matter to be discharged from any single source into the atmosphere in excess of the allowable emission shown in Table 1. When the process weight falls between two values in the table, the maximum weight discharged per hour shall be determined by interpolation.

Table 1

PROCESS WEIGHT RATE		RATE OF EMISSION	PROCESS WEIGHT RATE		RATE OF EMISSION
lbs/hr	tons/hr	lbs/hr	lbs/hr	tons/hr	lbs/hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.400	20,000	10.00	19.2
600	0.30	1.830	30,000	15.00	25.2
800	0.40	2.220	40,000	20.00	30.5
1,000	0.50	2.580	50,000	25.00	35.4
1,500	0.75	3.380	60,000	30.00	40.0
2,000	1.00	4.100	70,000	35.00	41.3
2,500	1.25	4.760	80,000	40.00	42.5
3,000	1.50	5.380	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.4	1,000,000	500.00	69.0
9,000	4.50	11.2	2,000,000	1,000.00	77.6
10,000	5.00	12.0	6,000,000	3,000.00	92.7
12,000	6.00	13.6			

7.2.2 When the process weight is less than 60,000 pounds per hour, the maximum allowable weight discharged per hour will be determined by the use of the following equation:

$$E = 4.10\ P^{0.67}$$

7.2.3 When the process weight exceeds 60,000 pounds per hour, the maximum allowable discharge per hour will be determined by the use of the following equation:

$$E = 55\ P^{0.11} - 40$$

E = maximum rate of emission in pounds per hour
P = process weight rate in tons per hour

7.2.4 For purposes of these regulations the sum of the process weight rate for a single source will be used to calculate allowable emission rates. Determination of whether or not two or more units are sufficiently similar to justify treatment as a single unit depends upon whether or not they can reasonably be replaced by a single piece of equipment that performs the same function. Two or more pieces of equipment or processes that handle different materials or produce dissimilar products will be treated separately in the application of these regulations.

(50.1) 7.3 Fugitive Dusts:

7.3.1 No person shall cause or permit the handling, transporting or storage of any material in a manner which allows, or may allow, controllable particulate matter to become airborne.

7.3.2 In areas designated by the control officer no person shall cause or permit the construction, repair or demolition work or use of unpaved or untreated areas without applying all such measures as may be required by the control officer to prevent particulate matter from becoming airborne.

7.3.3 No person shall disturb or cover any topsoil prior to obtaining a registration certificate or operating permit for the purpose of clearing, excavating, or leveling land of 20 acres or more for any building construction. An operating permit for the deposit of any foreign material covering land of 20 acres or more is required except for agricultural land.

(50.2) ARTICLE 8: SULFUR EMISSIONS

(51.11) 8.1 Primary Non-Ferrous Smelters:

8.1.1 No new industry shall cause, suffer, allow or permit the emission of sulfur in excess of the allowable emission shown in Table 2.

Table 2

Total Feed Sulfur Kg/Hour	Allowable Sulfur Emission - Kg/Hour Cu.	Zn.	Pb.
500	50	49	49
1,000	100	89	84
5,000	500	348	289
10,000	1,000	628	493
20,000	2,000	1,132	841
40,000	4,000	2,040	1,433

8.1.2 The maximum allowable weight discharged per hour for new industry will be determined by use of the following equations:

Copper smelters . . . . $Y = 0.1 X$ ($Y = 0.1 X$)
Zinc smelters . . . . . $Y = 0.25 X^{0.85}$ ($Y = 0.282 X^{0.85}$)
Lead smelters . . . . . $Y = 0.41 X^{0.77}$ ($Y = 0.49 X^{0.77}$)

X = Total feed sulfur, Kg/hour (lbs./hour)
Y = Allowable sulfur emission, Kg/hour (lbs./hour)

8.1.3* The maximum allowable weight discharged per hour for existing industry will be determined by use of the following equation:

Copper smelters . . . . $Y = 0.4 X$

X = Total feed sulfur, Kg/hour (lbs./hour)
Y = Allowable sulfur emission, Kg/hour (lbs./hour)

8.1.4 No person to the maximum extent practicable by the utilization of best available engineering techniques as approved by the Director shall cause, suffer, allow or permit controllable fugitive sulfur oxide emissions to be discharged to the atmosphere other than through a stack or stacks serving the smelter.

8.1.5 For the purposes of these regulations, total feed sulfur shall be calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous byproducts are emitted to the atmosphere. When furnaces, sinter machines, sinter boxes, roasters, converters, or other similar devices are used for converting ores, concentrates, residues, or slag to the metal or the oxide of the metal either wholly or in part, the combined sulfur input of all units shall be used to determine the allowable emission to the atmosphere.

(51.6) 8.2 Fuel Burning Equipment:

8.2.1 No person shall cause, suffer, allow or permit the emission of sulfur compounds caused by the combustion of fuel in excess of the quantity set forth in the following table:

Heat input, millions of British thermal units per hour	Maximum sulfur emission, pounds per hour
10	7.
100	70.
1,000	105.
10,000	1050.
100,000	10500.

*8.1.3 is disapproved as of 2/6/75 for the Nevada Intrastate Region, and replaced by 52.1475 of Federal Regulations.

8.2.2.1 For heat input of less than 250 million BTU's per hour the allowable emission shall be calculated by the use of the following equation:

$$Y = .7\ X$$

X = maximum heat input in millions of BUT's per hour
Y = allowable rate of sulfur emission in pounds per hour

8.2.2.2 For heat input of greater than 250 million BUT's per hour the allowable emission shall be calculated by the use of the following equation:

$$Y = 0.105\ X$$

X = maximum heat input in millions of BTU's per hour
Y = allowable rate of sulfur emission in pounds per hour

8.2.2.3 For the purposes of these regulations "sulfur emission" means the sulfur portion of the sulfur compounds.

(50.7) ARTICLE 10: ODORS

10.1 Odors:

10.1.1 No person shall discharge, or cause to be discharged from any source any material or air contaminant which is, or tends to be, offensive to the senses, injurious or detrimental to health and safety, or which in any way interferes with or prevents the comfortable enjoyment of life or property.

10.1.2 The control officer shall investigate an odor when 30 percent or more of a sample of the people exposed to it believe it to be objectionable in usual places of occupancy, the sample size to be at least 20 people or 75 percent of those exposed, if fewer than 20 people are exposed.

10.1.3 The control officer shall deem the odor occurrence a violation, if he is able to make two odor measurements within a period of one hour. These measurements must be separated by at least 15 minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted with eight or more volumes of odor-free air.

(51.21) 10.2 Reduction of Animal Matter:

10.2.1 The operation of any article, machine, equipment or other contrivance for the reduction of animal matter is prohibited unless all gases, vapors and gas-entrained effluents are:

10.2.1.1 Incinerated at temperatures of not less than 1400°F. for not less than 0.3 second; or

10.2.1.2 Processed in a manner determined by the control officer to be equally efficient.

10.2.2 These regulations do not apply to any article, machine, equipment, or other contrivance used exclusively for the processing of food for human consumption.

(12.0) ARTICLE 11: MOBILE EQUIPMENT

11.1 No person shall operate or leave standing on any highway any motor vehicle which is required by federal regulation to be equipped with a motor vehicle pollution control device unless such device is correctly installed and in operating condition. No person shall disconnect, alter or modify any such required device. The provisions of this Article shall not apply to an alteration or modification found not to reduce the effectiveness of any required motor vehicle emission control device. Neither shall the provisions of this Article apply to an alteration or modification of a vehicle to fuel use other than gasoline or diesel fuel where such alteration or modification is effected without violating existing federal and State standards for the control of exhaust emissions.

11.2 No gasoline-powered motor vehicle shall be operated which emits smoke while moving for a distance of more than 100 yards upon the streets, roads or highways of the State.

11.3 No person shall operate a diesel-powered motor vehicle or special mobile equipment manufactured after January 1, 1970, below 5000 feet elevation, where the period of continuous vehicle emission exceeds an opacity greater than 20 percent for more than 15 seconds. Diesel-powered motor vehicles or special mobile equipment manufactured prior to January 1, 1970, shall not exceed an opacity of 40 percent for more than 15 consecutive seconds.

11.4 Diesel-powered motor vehicles or special mobile equipment operating above a 5000 foot elevation shall not exceed an opacity of 40 percent for more than 15 seconds.

11.5 Unless provided for by federal regulation no person shall operate a device manufactured after January 1, 1970, used exclusively upon stationary rails below 5000 feet elevation where the period of continuous emission is of an opacity greater than 40 percent for more than 15 consecutive seconds. Devices manufactured prior to January 1, 1970, used exclusively upon stationary rails shall not exceed an opacity greater than 60 percent for more than 15 consecutive seconds.

11.6 Unless otherwise provided for by federal regulation devices used exclusively upon stationary rails operated above a 5000 foot elevation shall not exceed an opacity greater than 60 percent for more than 15 consecutive seconds.

(2.0) 11.7 Exceptions to this Article:

11.7.1 Scheduled maintenance or repairs which may result in emissions of air contaminants performed in an area determined by the control officer as constituting a repair shop shall not be in violation of this Article.

11.7.2 Diesel-powered motor vehicles and special mobile equipment may exceed the emissions set forth in 11.3 and 11.4 for not more than 15 minutes for stationary warmup of cold engines to achieve operating temperatures.

11.7.3 Emissions in excess of those set forth in Articles 11.5 and 11.6 shall not violate the requirements of this Article if emissions:

a) Are a result of maintenance or repairs.

b) For a period of 40 consecutive seconds during acceleration under load.

c) For a period of 4 consecutive minutes when loaded after a period of idle.

d) For a period of 30 consecutive minutes when starting a cold engine.

11.8 In areas where Federal air quality standards for carbon monoxide, oxides of nitrogen or hydrocarbon are exceeded or it is immenently apparent that they will be exceeded the Commission will institute a vehicle emission inspection program by 1974 to insure compliance with applicable regulations.

11.9 The Department of Motor Vehicles, main office or branch offices, or the county assessor, shall refuse registration or renewal or transfer of registration of any passenger car or motor truck with gross vehicle weight of 6000 pounds or less (as defined and reference made thereto in Chapter 482 of NRS) within any county that has been designated by the Commission as being in noncompliance with the Federal ambient air standards unless the registrant has a valid certificate of compliance from a licensed motor vehicle pollution control device inspection station or air pollution control agency indicating that such vehicle is properly equipped with a pollution control device as required by federal regulation and that it is in proper operating condition and that emissions, when tested, will meet applicable standards.

(4.0) ARTICLE 12: AMBIENT AIR QUALITY STANDARDS

12.1 The following air contaminant concentrations shall not be exceeded at any single point in the ambient air:

2.1.1 Sulfur oxides as sulfur dioxide
Annual arithemetic mean . . . . 60 ug/m^3 (.02 ppm)
Maximum 24-hour concentration. . . . 260 ug/m^3 (0.1 ppm)
Maximum 3-hour concentration . . . 1,300 ug/m^3 (0.5 ppm)

12.1.2 Particulate matter
Annual geometric mean . . . . 60 ug/m^3
Maximum 24-hour concentration. . . . 150 ug/m^3

12.1.3 Carbon monoxide
Maximum 8-hour concentration . . .10,000 ug/m^3 (9.0 ppm)
Maximum 1-hour concentration . . .40,000 ug/m^3 (35.0 ppm)

12.1.4 Photochemical oxident
Maximum 1-hour concentration . . . . 160 ug/m^3 (.08 ppm)

12.1.5 Hydrocarbons (non-methane fraction)
Maximum 3-hour concentration between
6:00 a.m. and 9:00 a.m. . . . . . . 160 ug/m^3 (0.24 ppm)

12.1.6 Nitrogen dioxide
Annual arithmetic mean . . . . 100 ug/m^3 (.05 ppm)

12.2 All values corrected to reference conditions.

12.3 Definitions:

ug/m^3 - micrograms per cubic meter
ppm - parts per million by volume

12.4 These ambient air quality standards are minimum goals and it is the intent of these regulations to protect the existing quality of Nevada's air to the extent that is economically and technically feasible.

INDIRECT SOURCE SUBMITTED: 11/12/74 FED. REG. APPROVED: 3/26/75

(10.0) ARTICLE 13: COMPLEX SOURCES AND LARGE STATIONARY SOURCES

13.1 General Provisions for the Review of New Sources:

13.1.1 Prior to the issuance of any registration certificates in accordance with this Article the applicant shall submit to the Director an environmental evaluation and any other information the Director may deem necessary to make an independent air quality impact assessemnt.

13.1.2 The preliminary intent to issue or deny issuance of a registration certificate for a single or complex source shall be made within 15 days after receiving adequate information for reviewing the registration application. The application, the Director's review and preliminary intent to issue or deny shall be made public and maintained on file with the Director during normal business hours at 1209 Johnson Street, Carson City, Nevada, and in the Air Quality Region where the source is located, at a site specified in a prominent advertisement by the Director for thirty (30) days to enable public participation and comment. All comments on the Director's review and preliminary intent for issuance or denial shall be submitted in writing to the Director within thirty (30) days after the public announcement. Within the time period prescribed by Article 3.2.4., the Director shall make his decision, taking into account written public comments on the Director's review and preliminary intent for issuance or denial, project proponent submittal and the effect of such a facility on the maintenance of the ambient air quality standards as contained in Article 12 and the control strategy contained in the Air Quality Implementation Plan.

13.1.3 The Director shall not issue a registration certificate for any source if the environmental evaluation submitted by the applicant shows, or if the Director determines, in accordance with the provisions of this Article, that the source will prevent the attainment and maintenance of the State and national ambient air quality standards or will cause a violation of the applicable control strategy contained in the approved Air Quality Im-lementation Plan.

13.1.4 The Director may impose any reasonable conditions on his approval, including conditions requiring the source owner or operator to conduct ambient air quality monitoring at the facility site for a reasonable period prior to commencement of construction or modification, and for any specified period after the source has commenced operation.

13.1.5 Where a proposed source located on contiguous property is constructed or modified in increments which individually are not subject to review as provided in this Article, all such increments occurring since the effective date of this Article shall be added together for determining the applicability of this Article.

13.1.6 Approval and issuance of a registration certificate to any source construction or modification shall not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy.

13.1.7 Any source or proposed facility shall, upon written application to the Director, receive within thirty (30) days a written notice of his determination, either requiring the submittal of an environmental evaluation or exempting the source from such requirement.

13.2 The following new complex sources or a modification to an existing complex source which would cause increases to the existing complex source as specified below, or other such facilities as the Director may specify upon written notice shall apply for registration certificates in accordance with this Article.

13.2.1 Shopping centers with motor vehicle parking areas of greater than 500 spaces or which generate greater than 1,000 motor vehicles trips/hour or 5,000 motor vehicle trips/eight hours.

13.2.2 Sports complexes with motor vehicle parking areas greater than 1,000 spaces or a seating capacity of greater than 3,000 persons.

13.2.3 Drive-in theaters with motor vehicle parking facilities of greater than 500 spaces.

13.2.4 Motor vehicle parking lots or garages with greater than 500 spaces.

13.2.5 Residential, governmental, commercial, industrial or institutional developments which can generate greater than 1,000 vehicles trips/hour or 5,000 vehicles trips per any eight hour period or which have parking facilities of greater than 1,000 spaces or residential development with greater than 500 individual or multiple occupancy units or commercial or institutional facilities with greater than 500 sleeping or rooming accommodations.

13.2.6 Amusement parks and recreational areas with motor vehicle parking areas of greater than 1,000 spaces and which can generate greater than 1,000 vehicle trips/hour or 5,000 vehicle trips/eight hour period.

13.2.7 Highways with anticipated average annual daily traffic volumes of greater than 10,000 motor vehicles per day.

13.2.8 Sewer, water, power and gas lines which are designed to serve greater than 5,000 new connections over the next ten years.

13.2.9 Airports which are expected to generate greater than 25,000 landings and take-off operations per year by regularly scheduled airlines or charter flights over the next ten years or with parking areas of greater than 500 spaces or which generate greater than 1,000 vehicle trips/hour or 5,000 vehicle trips/eight hours.

13.3 The following new single sources or modifications to an existing single source which would cause increases to existing single sources as specified below shall submit an environmental evaluation with their application(s) for registration:

13.3.1 Any single source which can cause, allow or permit the emission of an air contaminant of greater than 23 kilograms (50 pounds) per hour.

13.3.2 Any combination of single sources located at a single premise which can cause, allow or permit the emission of an air contaminant of greater than 23 kilograms (50 pounds) per hour.

13.3.3 Any signle source, upon written notice from the Director.

13.4 Environmental Evaluation:

13.4.1 The environmental evaluation required for new or modified single or complex sources, as determined by this Article or as required by the Director, shall include the following:

13.4.1.1 An environmental evaluation shall be a careful and detailed assessment of the environmental aspects of a proposed action.

13.4.1.2 An environmental evaluation shall contain adequate environmental safeguards to be implemented by the applicant to provide for the maintenance of acceptable air quality and shall consider:

a) Ambient air concentrations before, during and after construction, empirically calculated with recognized methods as approved by the Director; or, in the case of existing ambient air concentrations, they may be measured with approved methods at approved site locations for not less than one year. Estimates shall be empirically determined for ambient air concentration immediately contiguous to the facility and at the point of predicted maximum concentration with the surrounding region.

b) Diffusion models used to determine the location and estimated value of highest air contaminant concentration shall contain:

1. Assumptions and premises.
2. Evaluation at the recorded most adverse meteorological conditions in the last 100 years.
3. Evaluation at the recorded most adverse meteorological conditions in the last year.
4. Geographic area considered in the evaluation.
5. Dispersion equations.
6. Predicted contaminant buildup.
7. Location, type and amount of emissions.
8. Meteorological information.

c) Alternate proposals which could be implemented as conditions of approval.

d) Other probable environmental effects, before, during and after construction shall be considered in the narrative portion of the evaluation.

13.5 The following are exempt from Article 13.2:

13.5.1 Complex source or single sources existing prior to February 25, 1974, and remaining unmodified thereafter or those facilities which have received local approval and necessary building or construction permits by April 1, 1974; and commence a continuous program of construction before July 1, 1974.

13.5.2 Those complex sources or single sources obtaining an exemption granted by the President under Section 118 of the Clean Air Act of 1970.

(2.0) ARTICLE 14: SUPPLEMENTARY CONTROL SYSTEMS (SCS)

14.1 Definition - Supplementary Control Strategy is designed to maintain air quality standards by using rapid curtailment of the rate of sulfur emissions during adverse meteorological conditions in order to prevent the occurrence of ground-level ambient air concentrations in violation of Ambient Air Quality Standards.

14.1.1 Supplementary Control Systems (SCS) shall apply to all sources using available constant emission reduction technology to the maximum extent practicable, as contained in Article 8 of the Nevada Air Quality Regulations, which even with this technology, may not maintain the Ambient Air Quality Standards contained in Article 12.

14.2 Guidelines - A Supplementary Control System program shall have the following capabilities.

14.2.1 Continuous sampling of wind speed, wind direction, intermittent determination of atmospheric stability, and data and analyzing equipment approved by the Director shall be provided. The meteorological sampling sites shall be located at points where representative meteorological conditions are most likely to occur and these sites shall be designated by the Director.

14.2.2 The capability of making predictions of meteorological variables, with staff or under contract with a qualified meteorologist.

14.2.3 Continuous ambient air quality monitoring equipment and analyzing equipment approved by the Director in one or more locations in the area affected by the source. The ambient air monitoring sites should be located at points which are both reasonably accessible and near the locations of predictive maximum concentrations and shall be designated by the Director.

14.2.4 A technique to store and accumulate all applicable data on a continuous basis and make all information available to the Director upon written request.

14.2.5 An operating predictive model capable of forecasting the ambient air quality in the vicinity of the source which may, at the discretion of the Director, include:

a) Meteorological inputs

    1. Actual inputs

    2. Predicted durations

b) Emission rates

c) Source data

d) Terrain factors

e) The time required to implement a control decision

f) The time before control decision affects ambient air quality.

14.2.6 In lieu of an operative predictive model when emission curtailment can occur within one hour, the Director may, at his discretion and after an administrative hearing, approve threshhold values (measured concentration levels below Ambient Air Quality Standards and rate of change of concentrations that will serve as indicators to potential violation of Ambient Air Quality Standards) which shall be selected so that the appropriate control decision can be made in time to avoid violations of Ambient Air Quality Standards.

14.2.7 The Director shall require threshhold values with an operative predictive model.

14.3 Implementation of Supplementary Control Systems:

14.3.1 The Director shall be granted continuous access to inspect, test, and calibrate required meteorological equipment, ambient air monitoring equipment, data storing and accumulating equipment, and source discharge emission monitoring equipment and data.

14.3.2 The source shall provide adequate communications to alert the source and the Director to the attainment of one or more predetermined or predicted pollutant levies requiring specified remedial action which determines degree of emission discharge limitation needed for each situation.

14.3.3 All incidents that require remedial action will be reported to the Director within seventy-two (72) hours including information on pollutant levels, local meteorology, operations of the source at the time of the incident, curtailment response, and the results of the source's response on air quality and the predictability with the approved model.

14.3.4 The source shall provide an approved schedule to affect rapid emission curtailment which identifies a responsible person or persons on the site who are authorized to implement a curtailment of emission and who are qualified to appraise the source, upon the request of the Director, on the status of Supplementary Control Systems at any time.

14.3.5 The source shall submit a quarterly report on Supplementary Control Systems, including an analysis of the systems effect on air quality standards and how curtailment responses to adverse dispersion conditions were realized. All quarterly reports submitted by the source shall be systematically evaluated by the Director to improve the reliability of the Supplementary Control System.

14.3.6 When a predictive model is used, the ambient air quality data and predetermined threshhold values will supplement and shall override decisions based on the model output. The model quarterly review operation shall be used to convert the initially approved model into an accurate prediction mechanism tailored to the specific plant and specific ambient air quality data collected at the monitoring sites.

14.3.7 Where two or more sources are so situated that the emissions of each may contribute significantly to possible violations of the Ambient Air Quality Standards, the operation of a supplementary control system by such sources is authorized and such sources are to consult with each other and enter into contract for a coordinated Supplementary Control System that will meet the applicable Ambient Air Quality Standards. Such a plan shall be in writing and shall be submitted for approval to the Director. The Director may reject a proposed plan in whole or in part and may conditionally approve it upon acceptance by the sources of specific modifications.

14.3.8 The source or sources shall accept liability for measured violations of applicable Ambient Air Quality Standards at all sites used in the Supplementary Control System program and where ambient air quality is significantly affected by sources' emissions. Such acceptance must be in writing.

14.3.9 Any other criteria may be required that the Director deems necessary to assure that applicable ambient air quality standards are not being exceeded.

14.3.10 The Director may require that accurate records shall be kept of the SO_2 emissions by acceptable stack monitoring equipment or by other approved methods.

14.3.11 The Director shall be immediately notified of all violations of the applicable Ambient Air Quality Standards.

14.4 Application: An application for a Registration Certificate or Operating Permit using a Supplementary Control System shall contain:

14.4.1 A plan for the development, operation, and scheduling of the implementation of a Supplementary Control System which is subject to approval by the Director through ad administrative hearing.

14.4.2 A comprehensive report of a thorough background study which demonstrates the capability of the Supplementary Control System to attain applicable Ambient Air Quality Standards. The report shall contain a study made by the applicant during a 120 day period when ambient air quality concentrations of SO_2 were expected to be the highest during the year when the study was conducted and shall include, but not be limited to, the following:

a) The continuous air monitoring equipment and meteorological equipment used, its basic reliability, accuracy, and procedure for repair, replacement or maintenance.

b) The monitoring station locations for both ambient air quality and meteorology and why they were chosen.

c) The diffusion model or models used, why the model or models were used, and an estimate of the frequency of emission curtailments that is required to attain Ambient Air Quality Standards.

d) The methods to vary the emission rate, the basis for the choice, and the time required to effect sufficient reduction in the emission rate to avoid violation of the Ambient Air Quality Standards.

e) The frequency, characteristics, time of occurrence and duration of meteorological conditions associated with any violation of the Ambient Air Quality Standards during the study period.

14.4.3 A manual describing the source's Supplementary Control System program as stated in this Article.

14.4.4 A schedule of emission rates which would result under the various production curtailments.

14.4.5 Any other information the Director may require.

14.5 Revocation

14.5.1 The Director may revoke continued use of a Supplementary Control System operating permit on the following grounds:

14.5.1.1 If the source has not complied with the provisions of its Supplementary Control System program.

14.5.1.2 If the Supplementary Control System program has failed to protect Ambient Air Quality Standards.

14.5.1.3 If the source has not demonstrated good faith or effort in operating an effective program.

14.5.1.4 If the Supplementary Control System program has not reduced the emission rate in accordance with stipulated control criteria.

NEVADA - WASHOE CO.

EPA - APPROVED REGULATIONS

DISTRICT BOARD OF HEALTH
OF
RENO - SPARKS - WASHOE COUNTY
NEVADA

AIR POLLUTION CONTROL
REGULATIONS

FEBRUARY 1, 1972

GENERAL PROVISIONS

(1.0) 010.000 DEFINITIONS:

Except as otherwise specifically provided in these Regulations and except where the context otherwise indicates, words used in these Regulations are defined as follows:

010.005 "Air Contaminant" means any substance or gas discharged into the atmosphere, but excluding uncombined water.

010.010 "Air Pollution" means the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and duration, which are, or may tend to be, injurious to human health and welfare, plant or animal life, or property, or that interfere with the comfortable enjoyment of life or property or the conduct of business.

010.015 "Atmosphere" means the air that envelops or surrounds the earth and includes all spaces outside of buildings, stacks, or exterior ducts.

010.020 "Board of Health" means the District Board of Health of Reno, Sparks and Washoe County created pursuant to N.R.S. 439.370.

010.025 "BTU - British Thermal Unit" means the quantity of heat required to raise the temperature of one pound of water one degree fahrenheit at or near its point of maximum density (39.1°F).

010.030 "Combustion Contaminants" means particulate matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.

010.035 "Combustible Refuse" means any waste other than liquid and gases, which can be consumed by combustion.

010.040 "Commercial Fuel Oil" means a liquid or liquefiable petroleum product normally produced, manufactured, used or sold for the purpose of creating useful heat.

010.045 "Condensed Fumes" means minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or may be generated by sublimation, distillation, calcination or chemical reaction, when these processes create air borne particles.

010.050 "Control Equipment" means any equipment or contrivance or any combination thereof which has the function of controlling the emissions from a process, fuel-burning or refuse-burning equipment and thus reduces the creation of, or the emission of air contaminants into the atmosphere or both.

010.055 "Control Officer" means the person that has been designated to enforce the Air Pollution Control Regulations.

010.060 "District Health Officer" means the person appointed by the District Board of Health to administer activities of the Washoe County District Health Department in matters directly pertaining to health, disease, sanitation, and other matters directly relating thereto.

010.065 "Dust" means minute solid particles released into the atmosphere by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, land leveling, or any combination thereof.

010.070 "Emission" means the act of passing into the atmosphere an air contaminant or a gas stream which contains air contaminants; or the material so passed to the atmosphere.

010.075 "Fuel" means any form of combustible matter - solid, liquid, vapor or gas, excluding combustible refuse.

010.080 "Fuel Burning Equipment" means any device used for the burning of fuel for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with any other materials.

010.085 "Garbage" means putrescible animal or vegetable waste.

010.090 "Gas" means matter which has no definite shape or volume.

010.095 "Health District" means a health district created pursuant to N.R.S. 439.370 and includes all the incorporated cities and unincorporated areas of Washoe County, Nevada.

010.100 "Hearing Board" means five members appointed by the Board of Health pursuant to N.R.S. to perform the functions set forth in the Nevada Revised Statutes and these Regulations.

010.105 "Incinerator" (a) Multiple-Chamber Incinerator is any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three or more refactory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. In addition, there shall be an approved auxiliary burner in the primary and secondary combustion chambers, and an approved flue gas washer on all new installations providing the nearest property line is within 100 feet of the incinerator. (b) Pathological Incinerator is any multiple chambered incinerator used to dispose of pathological wastes, wet garbage and other high moisture content materials and must incorporate solid hearth construction, with drying shelves for wet wastes and auxiliary heating units to insure temperatures of 1400° F to 1800° F, for not less than 0.3 seconds.

010.110 "Mist" means a suspension of any finely divided liquid in any gas or in the atmosphere.

010.115 "Mobile Equipment" means a vehicle that is movable under its own power such as an automobile, truck, bus, locomotive, motorcycle, motor-bus, etc.

010.120 "Nuisance" means anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

010.125 "Odor" means that property of an air contaminant that affects the sense of smell.

010.130 "Opacity" means that property of a substance tending to obscure vision and is measured in terms of percent obscuration.

The relationship between opacity and Ringelmann number is:

Ringelman No.	Opacity %
1	20%
2	40%
3	60%
4	80%
5	100%

010.135 "Open Fire" means burning of any combustible refuse wherein the products of combustion are discharged directly into the atmosphere without passing through a stack or chimney.

010.140 "Particulate Matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

010.145 "Pathological Waste" means human and animal remains, consisting of carcasses, organ and solid organic wastes from hospitals, laboratories, abottoirs, animal pounds and similar sources.

010.150 "Person" means any individual, firm, association, organization, partnership, business trust, public or private corporation, company, department or bureau of the state, municipality or any officer, agent or employee thereof, or any other legal entity whatsoever which is recognized by the law as the subject of rights and duties.

010.155 "Process Weight" means the total weight of all materials introduced into any specific process, which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

010.160 "Process Weight Rate" means the total process weight divided by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

010.165 "Ringelmann Chart" means the chart published by the U.S. Bureau of Mines on which are illustrated graduate shades of grey or black for the use in estimating the light obscuring capacity of smoke.

010.170 "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other combustible material present in sufficient quantity to be observable or, as a suspension in gas of solid particles in sufficient quantity to be observable.

010.175 "Source" means any physical arrangement, condition, or structure which may emit air contaminants.

010.180 "Stack or Chimney" means any flue, conduit, or duct arranged to conduct an effluent to the open air.

010.185 "Standard Conditions" means when applied to gases, a gas temperature of 60 degrees fahrenheit and a gas pressure of 14.7 pounds per square inch absolute.

(2.0) 020.005 BOARD OF HEALTH - POWERS AND DUTIES

The Board of Health shall:

A. Adopt rules and regulations or amend existing rules and regulations, to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the Health District in order to control air pollution.

B. Make such determinations and issue such orders as may be necessary to implement the provisions of these standards.

C. Establish ambient air quality standards.

D. Institute proceedings to prevent continued violations of any order issued by the Board of Health, Hearing Board, or Control Officer and to enforce these Regulations.

E. Require access to records relating to emissions which cause or contribute to air pollution.

F. Apply for and receive grants or other funds or gifts from public or private agencies.

G. Cooperate and contract with other governmental agencies, including state and Federal Government.

H. Conduct investigations, research and technical studies consistent with the general purposes of the Nevada Revised Statutes.

I. Establish such emission control requirements as may be necessary to prevent, abate, or control air pollution.

J. Require the registration of air pollution sources together with a description of the processes employed, fuels used, nature of emissions and other information considered necessary to evaluate the pollution potential of a source.

K. Prohibit, regulate, or control as specifically provided in Chapters 030.005 through 030.020, the installation, alteration or establishment or any equipment, device or other article capable of causing air pollution.

L. Issue or deny all variance petitions after due consideration of the recommendation of the Hearing Board.

M. Require the submission of preliminary plans and specifications and other information as the Board deems necessary to process permits.

N. Enter into and inspect at any reasonable time any premise containing an air contaminant source or a source under construction for purposes of ascertaining the state of compliance with these regulations.

O. Hold hearings for purposes of implementing these Regulations.

P. Review recommendations of the Hearing Board and take such additional evidence as the Board of Health deems necessary or remand to the Hearing Board for such evidence as the Board of Health may direct.

Q. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.

S. Specify the manner in which incinerators may be constructed and operated.

T. Delegate all powers except subchapter A, C, F, O and R to the Control Officer or his representatives as may be necessary to implement these regulations.

U. Appoint by resolution of the Board of Health an Air Pollution Control Hearing Board consisting of five (5) members who are not employees of the State or any political subdivision of the State. One (1) member of the Hearing Board shall be an attorney admitted to practice law in Nevada, and one (1) member shall be a professional engineer registered in Nevada.

V. Institute in a court of competent jurisdiction legal proceeding to compel compliance with these Regulations and the Nevada Statutes pertaining to the emission of air contaminants into the atmosphere within the territorial limits of the Health District.

MODIFICATIONS OF ACTIONS

The Board of Health may in granting a variance impose appropriate conditions upon an applicant and may revoke the variance for failure to comply.

Board Actions

Upon making the determinations required by Chapter 020.030 the Board of Health may issue a cease and desist order. The order may be conditional and require a person to refrain from the particular act, unless certain conditions are met. However, no order of the Board of Health shall restrict or otherwise limit the type of design of equipment to be used in reducing the release of air contaminants, except equipment used to dispose of combustible refuse.

All decisions of the Board of Health shall become effective not less than thirty (30) days after they are issued, unless:

A. A rehearing is granted, which will have the effect of staying the decisions.

B. It is determined that an emergency exists which justifies an earlier effective date.

(2.0) 020.010 INJUNCTIVE RELIEF

Upon the failure or refusal of a person to comply with a cease and desist order of the Board of Health, an action may be filed in the Second Judicial District Court of the State of Nevada to restrain and enjoin the persons from engaging in further acts violating such order.

(2.0) 020.015 JUDICIAL REVIEW

Any person aggrieved by a decision of the District Board of Health, pursuant to Chapters 010.000 through 040.074 inclusive and Chapters 050.015 through 050.025 inclusive, or the Hearing Board, pursuant to Chapters 060.005 through 060.060, may petition the Second Judicial District Court for review. The review shall be trial de novo.

If such person wishes to petition the Second Judicial Court in the manner prescribed herein, he shall submit a written notice of his intent to petition said District Court to the District Health Officer within thirty (30) days after the decision of either the District Board of Health or the Hearing Board has been filed with said District Health Officer.

(2.0) 020.020 ADOPTION, AMENDING REGULATIONS

Before the adoption or amendment of any regulation, the Board of Health shall hold a public hearing. Any changes in the fee schedule will be at the discretion of the Board of Health and not subject to a public hearing. Notice of said hearing shall be given in any newspapers, qualified pursuant to the provisions of Chapter 23B of NRS, once a week for three (3) weeks, which notice shall specify with particularity the reasons and provide other informative details.

(2.0) 020.025 CONTROL OFFICER - POWERS AND DUTIES

The Control Officer, or his designated agent, shall enforce and have the power and authority in his name, or in the name of the Board of Health, to enforce the provisions of these Regulations and the policies of the Board of Health in relation thereto: to issue a Notice of Violation or Citation if he has reasonable cause to believe that a person is violating these Regulations; to issue a warning and give any violator an opportunity to correct the cause of the violation before the filing of a formal complaint, or, in the event the Control Officer has served upon the violator a Notice of Violation and said violator has not corrected the violation within a reasonable time, to request the District Attorney or other proper agency, person or prosecuting authority in Washoe County to institute a criminal action against the violator, or request the Board of Health to institute abatement proceedings against said violator.

The Control Officer at any reasonable time may require from any person such information or analyses as will disclose the nature, extent, quantity, or degree of air contaminants which are or may be discharged by any source of such air contaminants, and type or nature of control equipment in use, and may require that such disclosures by certified by a professional engineer registered in the State. In addition to such report, the Control Officer may designate an authorized agent to make an independent study and report as to the nature, extent, quantity, and degree of any air contaminants which are or may be discharged from the source. An authorized agent so designated is authorized to inspect any article, machine, equipment, or other contrivance necessary to make the inspection and report.

The Control Officer may require any person responsible for emission of air contaminants to make or have made tests to determine the emission of air contaminants from any source, whenever the Control Officer has reason to believe that an emission in excess of that allowed by the Air Pollution Regulations is occurring. The Control Officer may specify testing methods to be used in accordance with good professional practice. The Control Officer may observe the testing. All tests shall be conducted by reputable, qualified personnel. The Control Officer shall be given a copy of the test results in writing and signed by the person responsible for the tests.

The Control Officer may conduct tests of emissions of air contaminants from any source. Upon request of the Control Officer the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and scaffolding and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.

(16.0) 020.030 HEARING BOARD - POWERS AND DUTIES

Members and Term

Members of the first Hearing Board shall serve the following terms: Two shall be appointed for a term of one (1) year; two shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. Each member appointed to succeed the members first appointed upon the expiration of the above described terms shall serve for a term of three (3) years.

Officers

The Hearing Board shall select a Chairman, Vice-Chairman and such other officers as it deems necessary, and subject to the approval of the Board of Health, may adopt a manual of procedures to govern its operation.

Petitions

A. Any person aggrieved by:

    1. The issuance, denial, renewal, suspension or revocation of an operating permit; or

    2. The issuance, modification or rescission of any other order, by the Control Officer may appeal to the Hearing Board.

B. Each petition prior to filing shall include such information as the Control Officer or the Chairman of the Hearing Board deems necessary to facilitate the equitable and speedy determination of the matter to be presented to the Hearing Board. In addition to other matters required by this chapter, petitions for variances shall state briefly:

    1. The chapter or order in question.

2. The facts showing why compliance with this chapter or order is unreasonable.

3. For what period of time the variance is sought and why.

4. The damage or harm resulting, or which would result, to the petitioner from compliance with such chapter or order.

5. The requirement which the petitioner can meet and the date when the petitioner can comply with such requirements.

6. The advantages and disadvantages to the residents of the district resulting from requiring compliance or resulting from granting a variance.

7. Whether or not the subject equipment or process is registered with the Control Officer.

C. The Hearing Board shall decide the appeal, and may recommend the affirmance, modification or reversal of any action taken by the Control Officer which is the subject of the appeal.

D. The Hearing Board shall provide by rule for the time and manner in which appeals are to be taken to the Board of Health.

E. Any decision or order of the Board of Health may be appealed as provided in Chapter 020.015 of these regulations.

F. If the variance is recommended on the ground that is is justified to relieve or prevent hardship, it shall be for not more than six months.

Meetings

The Hearing Board shall meet within thirty (30) days after receipt of a request by the Board of Health, the Control Officer, a petitioner pursuant to Chapter 020.030 or on its own initiative.

Subpoenas

The Chairman of the Hearing Board may issue subpoenas to compel attendance of any person at a hearing and may require the production of books, records and other documents and materials at a hearing, administer oaths and examine witnesses.

Majority and Decisions

A majority of the total membership must concur in all decisions of the Hearing Board and all decisions shall be in writing and of public record. All decisions and recommendations along with the transcripts and evidence of each hearing shall be transmitted to the District Board of Health so that they may reach a final decision.

(15.0) 020.035 VIOLATION OF REGULATIONS

Whenever the Control Officer, or his designee, believes that a Regulation for the prevention, abatement or control of air pollution has been violated, he shall cite or cause written notice to be served upon the person or persons responsible for the alleged violation either by registered or certified mail or personally.

(15.0) 020.040 NOTICE OF VIOLATION

The Notice of Violation shall specify:

A. The regulation alleged to be violated; and

B. the facts alleged to constitute the violation.

The notice may include an order to take corrective action within a reasonable time, which may be specified. Such an order becomes final unless, within 10 days after service of the notice, a person named in the order requests a hearing before the Hearing Noard.

Without the issuance of an order pursuant to the above paragraph, or if corrective action is not taken within the time specified:

A. The Control Officer may notify the person or persons responsible for the alleged violation to appear before the Hearing Board.

B. The Control Officer may refer the case to the District Attorney's Office for misdemeanor prosecution.

C. The District Board of Health may initiate proceedings for recovery of the appropriate penalty, as per Chapter 020.050.

(15.0) 020.045 CITATION

The Citation shall specify:

A. The regulation alleged to be violated.

B. The facts alleged to constitute the violation.

C. The time and place alleged violator shall appear before the Justice of the Peace.

Appearance before the Justice of the Peace shall terminate with a fine being imposed or a trial date and bail being set. If the plea is not guilty the District Attorney's Office shall prepare a formal criminal complaint. If the alleged violator fails to appear at the scheduled time and place the Justice of the Peace may issue a bench warrant or the District Attorney's Office may file a criminal complaint followed by the service of a subpoena by the Washoe County Sheriff's Office.

(2.0) 020.050 ADMINISTRATIVE FINES

A. Any person found by the District Board of Health to have violated any provision of these Regulations, other than Chapters 020.065, 050.005 and 050.010, shall pay an administrative fine determined and levied by the District Board of Health in an amount not to exceed $5000.00 for each offense.

B. For the purposes of levying an administrative fine, each day of violation of any provision of these Regulations shall constitute a separate offense.

C. Prior to levying an administrative fine for each violation of any provision of these Regulations, the District Board of Health shall first consider the facts and/or evidence establishing such violation by one or more of the following methods:

1. Hearing and receiving evidence of such violation from the Control Officer if the person responsible has not appeared at or requested a hearing before the Hearing Board.

2. Reviewing and receiving evidence of such violation as contained in the transcript or record of proceedings before the Hearing Board, at which proceeding evidence of such violation was presented to said Hearing Board. If the Board of Health, after reviewing the recommendation of the Hearing Board, decides to receive additional evidence or remand the case to the Hearing Board to receive and record additional evidence, the same considerations for taking and receiving evidence as are contained in these Regulations shall apply on any such rehearing.

3. Hearing and receiving evidence of such violation from any person, public official, or representative of the District Board of Health, provided the person charged with committing such violation shall be provided an opportunity to present evidence in his defense before said Board, after being given reasonable notice, not less than seven days, of the hearing of the charges against him.

D. For the purpose of determining whether or not a violation of these Regulations has occurred, the District Board of Health shall base its decision on evidence commonly relied upon by reasonable and prudent men in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Documentary evidence may be received in the form of authenticated copies or excerpts, if the original is not readily available, and on request, an aggrieved party shall be given an opportunity to compare the copy with the original if such is available. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though its matter was not covered in the direct examination, and impeach any witness regardless of which party first was called into testify, and rebut the evidence against him. The District Board of Health may take notice of judicially cognizable facts and generally recognized technical or scientific facts within said Board's specialized knowledge.

All decisions of the District Board of Health respecting administrative fines shall be in writing or stated in the official minutes of said Board, and a proper notice of such decision shall be forwarded to the aggrieved party at his last known mailing address.

E. The Board of Health shall levy administrative fines, as provided for in these Regulations, in accordance with the following schedule:

1. First violation;

   (a) Chapters 040.035 and 040.040 (by individual resident) ... $25.00.

   (b) Chapters 040.005 and 040.030 (for incinerators and fugitive dust) ... $50.00.

   (c) Chapters 040.010, 040.015 and 040.020 (for stack emissions and process weight) ... $100.00.

   (d) Chapter 030.010 (Permit to Operate) ... $100.00.

   (e) Chapters 050.015 through 050.025 (Mobile Equipment and Emissions) ... $25.00.

2. Second violation within 365 day period;

   (a) Fine levied will be double the amount of first violation.

3. Third violation within 365 day period;

   (a) Fine levied will be double the amount of the second violation.

4. In the case of four or more violations in any 365 day period, the fine may be that which is deemed appropriate by the Board of Health in an amount not to exceed $5000.00 for such offense.

F. Any person aggrieved by an order issued pursuant to this chapter is entitled to judicial review as provided in Chapter 020.015 of these Regulations.

G. Nothing contained in Chapter 020.050 of these Regulations shall be construed as limiting the authority of the Board of Health to take other appropriate remedies as are provided in these Regulations.

H. Increased fines for second, third or fourth violations involving mobile equipment or stationary sources must be concerned with the same equipment or source and not total violations received by a person.

(15.0) 020.055 INJUNCTIVE RELIEF

In addition to any remedy at law hereunder, the Control Officer may apply to a court of competent jurisdiction for any other equitable and injunctive relief to enforce compliance with, or to restrain violation of any provision of these Regulations, or to any regulation or rule made and adopted pursuant thereto.

(15.0) 020.060 INTERFERENCE WITH PERFORMANCE OF DUTY

It shall be unlawful for any person to interfere or impede the Control Officer or his designee in the performance of his duty in his investigation of a suspected air pollution violation, or refuse to permit him to perform this duty by refusing entrance to the premises or property.

(13.0) 020.065 RECORDS AND INFORMATION - (See end of Regulations for promulgation of "Public Availability of Data".)

(9.0) 020.070 SAMPLING AND TESTING

The Control Officer or Board of Health may require any person to conduct, or have conducted, testing to determine compliance with these Regulations. The Control Officer may, at his option, witness such tests. All information gathered during a testing operation will be provided to both parties.

Testing to determine the quantity of emissions shall be undertaken by generally recognized methods of measurement, and at such a point or points as to represent the actual discharge into the atmosphere; except that these may be modified or adjusted by the Control Officer to suit specific sampling conditions or needs based upon good practice, judgment and experience.

The costs of tests shall be paid by the owner or person using such installation. The Control Officer may conduct separate or additional tests of an installation on behalf of the District at the District's expense. Sampling holes, safe scaffolding and pertinent allied facilities, but not instruments and sensing devices, as needed shall be requested in writing by the Control Officer and provided by and at the expense of the owner of the installation at such points as the Control Officer requests.

The owner or user of such property shall provide a suitable power source to the point of testing so that sampling instruments can be operated as required.

Any results or information obtained will be treated as confidential according to Chapter 020.065 of these regulations.

(2.0) 020.075 TECHNICAL REPORTS AND FEES

Information, circulars, reports or technical work, and other reports prepared by the Control Officer when supplied to other governmental agencies or individuals or groups requesting copies of the same be charged for by the Control Officer in a sum not to exceed the cost of preparation and distribution of such documents.

All such monies collected shall be deposited in the office of the County Treasurer to the credit of the general fund.

(2.0) 020.080 CIRCUMVENTION

It is unlawful for any person to build, erect, install, or use, or cause to be built, erected, installed or used, any article, machine, equipment or other contrivance, the use of which without resulting in a reduction in the total release of air contaminants into the atmosphere, reduces or conceals an emission which would otherwise constitute a violation of Regulations concerning air pollution as adopted by the District Board of Health. This Chapter shall not apply to the cases in which the only violation is of Chapter 040.055 of these Regulations.

(7.0) 020.085 UPSET, BREAKDOWN OR SCHEDULED MAINTENANCE

Operation of any plant or equipment so as to cause emissions of air contaminants in excess of limits set by these Regulations, which is a direct result of upset conditions or breakdown or is a direct result of the shutdown of such equipment for scheduled maintenance, is not a violation of these Regulations, provided;

A. The occurrence, and expected duration, has been reported to the Control Officer at least twenty-four (24) hours before any scheduled maintenance, and the scheduled maintenance is performed where possible during times specified by the Control Officer as favorable for atmospheric ventilation, or;

B. The occurrence has been reported to the Control Officer as soon as reasonable possible in the case of an upset breakdown, but in no case more than two (2) hours after the occurrence; and

C. Repairs are made with maximum reasonable effort, including use of off-shift labor, overtime, or work periods of non-operation; and

D. In the event of emission of air contaminants of a nature or in quantities which would endanger public health or safety, such emission is stopped entirely or reduced to harmless levels as soon as possible; and

E. Upsets or breakdowns do not occur with such frequency that careless, marginal, or unsafe operation is indicated.

(3.0) 020.090 REGISTRATION OF SOURCES

Registration Requirements

Except as provided in subchapter 020.090 (exceptions), any person who causes, lets, permits, suffers or allows the emission of air contaminants, whether or not limits are established by these Regulations for emissions of such contaminants, shall file with the Control Officer, on forms provided by him, the following information:

A. Location of the source;

B. Size and height of outlets;

C. The process employed;

D. The fuel or fuels used;

E. The nature, rate and duration of emissions; and

F. Any information relevant to possible air pollution as specified by the Control Officer.

Date of Registration

Emission sources existing on the date these Regulations become effective, shall within 30 days thereafter request registration forms from the Control Officer and within 30 days from receipt of such forms, return the completed forms to the Control Officer.

Change in Status

Each person subject to these regulations shall maintain such registration in current status by registering with the Control Officer if any substantial change is made affecting the information on file furnished in compliance with these Regulations.

Exceptions

The following sources of emission of air contaminants shall be exempt from the registration provisions of this Chapter:

A. Internal combustion engines installed in mobile equipment units, or any engine used solely as a standby source of motor power.

B. Aircraft not otherwise included under above subchapter A.

C. Natural gas fired or liquefied petroleum gas fired or oil fired equipment (burning No. 1 and No. 2 fuel oil) furnaces, water heaters or steam generators, having not over 350,000 B.T.U.'s per hour total input.

(2.0) 020.095 SEVERABILITY

If any provision of these regulations or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of these Regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

PERMITS AND FEES

(3.0) 030.005 AUTHORITY TO CONSTRUCT

Every person, firm, corporation, public utility, or public institution applying for a building permit from the building inspector - which building or structure will include any fuel burning, refuse disposal, or processing equipment that emit contaminants into the atmosphere shall, upon approval and remittance of proper fee (see Chapter 030.015), obtain from the Health Department an AUTHORITY TO CONSTRUCT and upon completion a PERMIT TO OPERATE. Any local government authority, if any, responsible for issuing any required building permit shall not issue such building permit until the registration has been made pursuant to Regulations.

The Building Department, or any person shall submit a report and plans of proposed construction, installation, alteration or modification likely to affect the quality of ambient air within the District to the Control Officer for approval prior to the initiation of construction. The Control Officer shall review, or cause to be reviewed, such plans to determine the extent of compliance with these Regulations. The report shall be signed by the owner and, when required by the Air Pollution Control Officer, shall be certified by a licensed professional engineer as to the accuracy of the technical information concerning the equipment and/or control device contained in the report. The signature of the owner, or his agent, shall constitute an agreement that the signer shall assume responsibility for the capability of such equipment and/or control device to comply with the regulations when in operation. Said plans must be accompanied by a non-returnable $10.00 Plan Review Fee.

A. If there be deficiencies in such plans, the Control Officer shall make a written report to the person or agency of the deficiencies which will require corrective treatment.

B. If there be no deficiencies the Control Officer shall approve, or certify the plans as approved and give a written notification of the action to the person or agency requesting review.

C. An application shall be acted upon within 30 calendar days after it is filed in the office of the Control Officer.

D. In the event the plans, specifications, or information submitted to the Control Officer pursuant to Chapter 030.005 herein, reveal a proposal to construct, install, reconstruct, or alter any process, fuel-burning, refuse-burning or control equipment of such complex design and/or involving technological ingenuity or advances of considerable magnitute, the Control Officer may, at his option, require the applicant to present statements from the manufacturer and installation contractor certifying that the proposed equipment or installation will comply with all of the applicable provisions and limitations set forth in these Regulations. Upon filing of such certificates of compliance, the applicant may proceed with the proposed installation, subject however to all the provisions of Chapter 030.005 herein after set forth.

E. No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications and other pertinent information upon which the installation permit was issued without the written approval of the Control Officer.

F. Violation of the installation permit shall be sufficient cause for the Control Officer to stop all work, in connection with said permit, and he is hereby authorized to seal the installation. No further work shall be done until the Control Officer is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

G. If construction, installation, reconstruction, or alteration is not commenced within six (6) months of date of the installation permit, the permit shall become void, unless an extension of time is warranted and granted by the Control Officer.

H. If applicant deems the process or equipment to be secret he may file, with the approval of the Control Officer, his affidavit to the effect that such equipment or process will be so used as to comply with all other provisions of these Regulations. Any permit or approvals granted to the applicant shall be made in relevance of the truth of representations set forth in such affidavit. All persons engaged in operations which may result in air pollution and who under these Regulations are required to obtain a permit must be registered on forms furnished by the Control Officer, at such times as the Control Officer shall determine, containing information relating to location, size of outlet, height of outlet, rate and period of emission, composition of effluent, characteristics of air cleaning devices, and such other similar information as the Control Officer shall require for review.

(3.0) 030.010 PERMIT TO OPERATE

Before any article, machine, equipment, or structure described in Chapter 030.005 or any sources existing prior to the adoption of these Regulations may be operated or used, a written permit shall be obtained from the Control Officer after paying appropriate fees described in Chapter 030.015. No permit to operate or use shall be granted either by the Control Officer or recommended by the Hearing Board for any article, machine, process or structure described in Chapter 030.005, constructed or installed without authorization as required by Chapter 030.005, until the information and fees required are presented to the Control Officer and such article, machine process or structure is altered, if necessary, and made to conform to the standards set forth in Chapters 040.005 through 040.075 and elsewhere in these Regulations.

A person who has been granted under Chapter 030.010 a permit to operate any article, machine, structure or process described in Chapter 030.005, shall firmly affix such permit to operate upon the article, machine, process or structure in such a manner as to be clearly visible and accessible.

An operating permit does not relieve the user of complying with all emission standards set forth in Chapter 040. Upon violation of Chapters 040.005 through 040.075 or any other chapter of these Regulations, the Control Officer may revoke any permit upon presentation of a notice of violation. Said permit to remain inactive until complaining condition is corrected.

A person shall not wilfully deface, alter, forge, counterfeit, or falsify a permit issued by the Control Officer to construct or operate any article, machine, process or structure.

An Authority to Construct, or Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one piece of equipment to another, or from one person to another.

(3.0) 030.015 FEES

Plan Review

All persons applying for an Authority to Construct must make application to the Control Officer and submit a $10.00 non-returnable

Plan Review fee. Any federal, state, municipality or public district is exempt from paying the $10.00 Plan Review Fee.

Permit Fee

Any person required to obtain a Permit to Operate (see Chapter 030.020 for Exceptions) from the Control Officer must pay a fee in the following schedules. Any federal, state, municipality, or public district is exempt from paying the prescribed fee.

Yearly renewal of all operating permits is required, and each renewal must be accompanied by a fee as set forth in the fee schedules.

A fee of $2.00 shall be charged for issuing a duplicate permit to operate.

Fuel Burning Equipment Schedule

Any article, machine, equipment or other contrivance in which fuel is burned, with the exception of incinerators which are covered in separate schedule shall be assessed a permit fee based upon the designed fuel consumption of the article, machine, equipment or other contrivance expressed in thousand of British Thermal Units (BTU) per hour, using gross heating values of the fuel, in accordance with the following schedule:

	1000 BRITISH THERMAL UNITS PER HOUR	FEE
A.	2000 to 5000	$ 20.00
B.	5001 to 15,000	45.00
C.	Greater than 15,000	110.00

Incinerator Schedule

Any article, machine, equipment or other contrivance designed and used primarily to dispose of combustible refuse by wholly consuming the material charged leaving only the ashes or residue shall be assessed a permit fee based on the following schedule of rated burning capacity in pounds per hour for type II waste (I.I.A. Classification).

	RATED CAPACITY, IN POUNDS PER HOUR	FEE
A.	100 to 200	$ 20.00
B.	201 to 500	45.00
C.	501 to 1000	85.00
D.	Over 1000	130.00

Storage Tank Schedule

Stationary tank, reservoir, or other container, of more than 40,000 gallons capacity containing gasoline or any petroleum distillate having an absolute vapor pressure of 1.5 pounds per square inch absolute or greater under conditions of storage................................	$100.00

Process Schedule

Any process or process equipment that emits contaminants into the atmosphere shall be assessed an operating fee based on actual weight of contaminants emitted. If uncontrolled or if actual emissions are unknown, the fee is to be based on process weight per hour (Chapter 040.020). When actual emissions are known, permit fee may be reevaluated.

	PROCESS WEIGHT PER HOUR	FEE
A.	Up to 1000 lbs. per hour input......................	$ 45.00
B.	1001 to 10,000....................................	140.00
C.	10,001 to 50,000..................................	450.00
D.	Over 50,000.......................................	690.00

Miscellaneous Schedule

A. Any article, machine, equipment or process (e.g. dry cleaning, degreasing, spray painting, etc.) not included in preceding schedules shall be assessed a permit fee amounting to $10.00. An additional $10.00 fee will be charged for each 1.75 pounds of contaminants emitted each 24 hours.

B. The Board of Health shall have the right to increase, reduce, or discontinue fees at its discretion.

(3.0) 030.020 EXCEPTIONS

An Authority to Construct or a Permit to Operate shall not be required for:

A. Mobile equipment.

B. Structural changes which cannot change the quality, nature or quantity of air contaminant emissions.

C. Equipment, other than incinerators, utilized exclusively in connection with any structure, which structure is designed for and used exclusively as a dwelling for not more than four families.

D. Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants.

E. Water cooling towers not used for evaporative cooling of process water or not used for evaporative cooling of water from barometric condensers.

F. Lint traps used exclusively in conjunction with dry cleaning tumblers.

G. Equipment used in eating establishments for the purpose of preparing food for human consumption.

H. Crucible furnaces, pot furnaces or induction furnaces, with a capacity 1000 pounds or less each, in which no sweating or distilling is conducted and from which only the following metals are held in a molten state:

   1. Aluminum or any alloy containing over 50 percent aluminum.

   2. Magnesium or any alloy containing over 50 percent magnesium.

   3. Lead or any alloy containing over 50 percent lead.

   4. Tin or any alloy containing over 50 percent tin.

   5. Zinc or any alloy containing over 50 percent zinc.

   6. Copper.

   7. Precious metals.

I. Repairs or maintenance involving structural changes to any equipment for which a permit has been granted.

J. Identical replacements in whole or in part of any article, machine, equipment or other contrivance where a permit to operate had previously been granted for such equipment under Chapter 030.010.

PROHIBITED EMISSIONS

(50.1.2) 040.005 VISIBLE AIR CONTAMINANTS

Except as otherwise provided, it is unlawful for any person to discharge, or cause to be discharged, into the atmosphere from any single source of emission whatsoever, any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour, which is:

A. As dark or darker in shade as that designated as No. 1 on the Ringelmann Chart; or

B. Of any opacity equal to or greater than air contaminant designated No. 1 on the Ringelman Chart.

Where the presence of uncombined water is the only reason for failure of an emission to meet the above limitations, they shall not apply. The burden of proof which established the application of this paragraph shall be upon the person seeking to come within its provisions.

(50.1) 040.010 PARTICULATE MATTER

Except as otherwise provided in Chapter 040.020 and Chapter 040.030, it is unlawful for any person to discharge or cause to be discharged, into the atmosphere from any source, particulate matter in excess of 0.15 grains per cubic foot of gas at standard conditions.

(50.0) 040.015 SPECIFIC CONTAMINANTS

It is unlawful for any person to discharge, or cause to be discharged, into the atmosphere any one or more of the following contaminants, in any state or combination thereof, exceeding in concentration at the point of discharge:

A. Sulfur compounds calculated as sulfur dioxide (SO_2): 0.2 percent, by volume.

B. Combustion contaminants: 0.15 grains per cubic foot of gas calculated to 12 percent of carbon dioxide (CO_2) at standard condition. In measuring the combustion contaminants from incinerators used to dispose of combustile refuse by burning, the carbon dioxide produced by combustion of any liquid or gaseous fuels shall be excluded from the calculation to 12 percent of carbon dioxide.

(50.1.3) 040.020 DUST AND FUMES

(50.6) It is unlawful for any person to discharge, or cause to be discharged, in any one (1) hour from any source whatsoever, dust or fumes in total quantities in excess of the amount shown in the following table:

Process Wt/hr (lbs)	Maximum Weight Disch/hr (lbs)
50	.24
100	.46
150	.66
200	.852
250	1.03
300	1.20
350	1.35
400	1.50
450	1.63
500	1.77
550	1.89
600	2.01
650	9.12
700	2.24
750	2.34
800	2.43
850	2.53
900	2.62
950	2.72
1000	2.80
1100	2.97
1200	3.12
1300	3.26
1400	3.40
1500	3.54
1600	3.66
1700	3.79
1800	3.91
1900	4.03
2000	4.14
2100	4.24
2200	4.34
2300	4.44
2400	4.55
2500	4.64
2600	4.74
2700	4.84
2800	4.92
2900	5.02
3000	5.10
3100	5.18
3200	5.27
3300	5.36
3400	5.44
3500	5.55
3600	5.61
3700	5.69
3800	5.77
3900	5.85
4000	5.93
4100	6.01
4200	6.08
4300	6.15
4400	6.22
4500	6.30
4600	6.37
4700	6.45
4800	6.52
4900	6.60
5000	6.67
5500	7.03
6000	7.37
6500	7.71
7000	8.05
7500	8.39
8000	8.71
8500	9.03
9000	9.36
9500	9.67
10000	10.0
11000	10.63
12000	11.28
13000	11.89
14000	12.50
15000	13.13
16000	13.74
17000	14.36
18000	14.97
19000	15.58
20000	16.19
30000	22.22
40000	28.3
50000	34.3
60000 or more	40.0

To use the table, take the process weight per hour as such is defined in this Section. Then find this figure in the Table, opposite which is the maximum number of contaminants which may be discharged into the atmosphere in any one (1) hour. As an example, if "A" has a process which emits contaminants into the atmosphere and which process takes 3 hours to complete, he will divide the weight of all materials in the specific process, in this example 1500 pounds by 3, giving a process weight per hour 500 pounds. The table shows that "A" may not discharge more than 1.77 pounds in any one (1) hour during the process. Where the process weight per hour falls between figures in the left hand column, the exact weight of permitted discharged may be interpolated.

(50.0) 040.025 EXCEPTIONS

The provisions of Chapter 040.005 through and including Chapter 040.020 do not apply to open fires set pursuant to obtaining a permit.

(50.1.3) 040.030 FUGITIVE DUST CONTROL

Prohibitions

A. Any person engaged in activities involving the dismantling of buildings, public or private construction, mining or processing sand, gravel, or rock (which includes excavating, crushing, sizing, screening, cleaning, and mixing), the operation of machines and equipment, the grading of roads, and trenching operations, shall take all reasonable precautions to abate emissions caused by dust and to prevent its transmission beyond the boundary lines of the real property on which it originates. Reasonable precautions may include, but are not limited to, cleaning up, sweeping, sprinkling, compacting, enclosure, chemical or asphalt sealing, or such other measures as the Control Officer may specify to accomplish satisfactory results.

B. No owner or lessee or any real property located or situated within Washoe County, Nevada, or in any incorporated city therein, shall, after the topsoil has been disturbed or the natural cover removed, allow the same to remain unoccupied, unused, vacant or undeveloped, without taking all reasonable precautions to prevent fugitive dust from becoming airborne. Adequate and reasonable precautions shall include, but are not limited to, compacting, chemical sealers, resin sealers, asphalt sealers or plantings.

C. No person shall cause or permit the handling or transporting or storage of any material in a manner which allows or may allow controllable particulate matter to become airborne.

D. In addition to Subsection A above, all particulate matter such as sand, dust, or dust particles, which are of such size and nature as to be recognizable and traceable to their source, using accepted techniques, and which result in particle fallout rates beyond the properties of the owners, lessees, occupants, operators, or users thereof, in excess of two (2) tons per square mile for a twenty-four (24) hour period with the normal background of environmental fallout as a reference or zero point.

Correction of Condition

If loose sand, dust, or dust particles are found to exist in excess of limits prescribed in Chapter 040.040, the Control Officer shall notify the owner, lessee, occupant, operator, or user, of said land that said situation is to be corrected within a specified period of time, dependent upon the scope and extent of the problem, but in no case may such a period of time exceed three (3) days.

Remedial Action

The Control Officer, or his designated agent, after due notice pursuant to Chapter 020.025, may enter upon the subject land where said sand or dust problem exists, and take such remedial and corrective action as may be deemed appropriate to relieve, reduce, or remedy the existent sand condition, where the owner, occupant, operator, or any tenant, lessee, or holder of any possessory interest or right in the subject land, fails to do so.

Costs

Any costs incurred in connection with any such remedial or corrective action by the Control Officer shall be assessed against the owner of the involved property, and failure to pay the full amount of such costs shall result in a lien against said real property, which lien shall remain in full force and effect until any and all such costs shall have been fully paid, which shall include, but not be limited to, costs of collection and reasonable attorney's fee therefore.

(51.13) 040.035 OPEN FIRES

It is unlawful for any person to burn, or cause to be burned, any combustible refuse in any open fire within the Health District, excluding fires for food preparation and recreation with designated campgrounds and parks and those set forth in Chapter 040.040 except for the following, and then only when a burning permit has been issued by the Control Officer or his designee:

A. When such fire is set for the purpose of the prevention of a fire hazard, declared by a Public Fire Chief or his designee, which cannot be abated by any other alternate means.

B. When such fire is set for the instruction of public or private employees in the methods of fighting fires.

C. When such fire is set in the course of any agricultural operation in the growing of crops, such as burning of weeds to clear irrigation ditches, canals, laterals.

D. When such fire is set in the course of recreational outing or event by an organization, such as homecoming bonfires.

E. When such fire in the opinion of the Control Officer is necessary.

F. When such fire is set for the purpose of removing weeds from empty lots during a sixty (60) day period specified each year by the Public Fire Chief or his designee. During this sixty day period, permits may be issued by the Fire Department, with a copy to the Control Officer, provided the following stipulations are met.

   1. The premises are inspected by the Fire Department and they declare a fire hazard exists which cannot be abated by any other practical method, as determined by the Public Fire Chief or his designee.

   2. The premises are cleared of any combustible refuse other than weeds.

   3. The permittee is required to maintain adequate combustion during burn to prevent emission of smoke as prohibited by these Regulations.

These exceptions shall not be effective when the Control Officer determines that:

1. The inversion base is 1500 feet or less above the valley floor (6000 feet mean sea level).

2. The inversion will hold throughout the day.

3. A public nuisance will be created.

Nothing in these Regulations shall prohibit or require a burning permit for the use of, at private residences, barbecue pits, grills, or outdoor fireplaces for the preparation of food for human consumption.

(3.0) (51.13) 040.040 BURNING PERMIT CONDITIONS

A copy of the burning permit must be available at the site of each burn. All conditions stipulated on the permit itself and those additional ones imposed by the Control Officer must be strictly followed. Any violation of these conditions will have the effect of voiding the permit and subject the user to the actions stated in Chapters 020.055, inclusive.

(51.9) 040.045 REFUSE DISPOSAL

Refuse Burning - Prohibited

Within the Lake Tahoe Basin, Sun Valley Water District, and within three (3) miles of any city limits it is unlawful to burn, or cause to be burned, any combustible refuse except in an approved multiple chambered incinerator (described in Chapter 010,105) or in equipment found by the Control Officer, in advance of such use, to be equally effective for the purpose of air pollution control.

Refuse Burning - Acceptable

In those areas of the Health District not set forth above, combustible refuse may be burned without a burning permit from this office provided:

A. Fires are contained in suitable structures or equipment, excluding pits and holes in the ground, that restrict size of the fire.

B. Contemplated structures or equipment meet all fire and safety codes for area.

C. Fires do not create a public nuisance or fire hazard.

(51.9) 040.050 INCINERATOR EMISSIONS

No person shall cause, suffer, allow, or permit the discharge into the atmosphere from any multiple chambered incinerator, or approved incinerator, any visible air contaminants for a period or periods aggregating more than one (1) minute in any one hour which is:

A. As dark or darker in shade than that designated as No. 1 on the Ringelmann Chart; or

B. of an opacity to or greater than an air contaminant designated as No. 1 on the Ringelmann Chart.

(50.6) 040.055 NUISANCE - ODOROUS OR GASEOUS CONTAMINANTS

It is unlawful for any person to discharge, or cause to be discharged, from any source whatsoever, any quantity of odorous or gaseous emissions, materials, or air contaminants of any kind or description, which is, or tends to be, offensive to the senses, or injurious or detrimental to repose, health and safety, or which in any way unduly interferes with or prevents the comfortable enjoyment of life or property by any considerable number of persons or the general public.

The Control Officer shall investigate an odor when thirty (30) percent or more of a sample of the people exposed to it believe it to be objectionable in usual places of occupancy, the sample size to be at least twenty (20) people or seventy-five (75) percent of those exposed if fewer than twenty (20) people are exposed.

The Control Officer shall deem the odor occurrence a violation if he is able to make two odor measurements within a period of one hour, these measurements being separated by at least fifteen (15) minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted with eitht or more volumes of odor-free air.

(50.2) 040.060 SULFUR CONTENT OF FUEL

It is unlawful for any person to burn, or cause to be burned, within the District at any time, a fuel having a sulfur content in excess of 1.0 percent by weight.

The provisions of this Section shall not apply to the use of liquid or solid fuels whenever the supply of gaseous fuel is not physically available to the user due to accident, act of God, act of War, or act of Public Enemy.

(51.21) 040.065 REDUCTION OF ANIMAL MATTER

It is unlawful for any person to burn, or cause to be burned, operate or use, or cause to be operated or used, any article, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors, and gas entrained effluents from such an article, machine, equipment or other contrivance are:

A. Incinerated at temperatures of not less than 1400° fahrenheit for a period of not less than 0.3 seconds; or

B. processed in a manner determined by the Control Officer to be equally, or more effective for the purpose of air pollution control than A above.

A person incinerating or processing gases, vapors, or gas entrained effluents pursuant to this chapter shall provide, property install and maintain in calibration, in good working order and operation, devices as specified in these Regulations or as specified by the Control Officer, for indicating temperature, pressure, or other operating conditions. For the purpose of these Regulations, "reduction" is defined as any heated process including rendering, cooking, drying, dehydrating, digesting, evaporation, and protein concentration. The provisions of this Chapter shall not apply to any article, machine, equipment or other contrivance used exclusively for the processing of food for human consumption.

(51.16) 040.070 STORAGE OF PETROLEUM PRODUCTS

It is unlawful for any person to place, store or hold, in any stationary tank, reservoir or other container, of more than 40,000 gallons capacity, any petroleum distillate having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or the container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss into the atmosphere, or unless it is designed and equipped with the following vapor control device property installed and in good working order and operation:

A. A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, to close the space between the roof edge and the tank wall. The control equipment provided for herein shall not be used if the gasoline or petroleum distillate has a pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

B. A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and will all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

C. Other equipment of equal efficiency, provided such equipment is submitted to and approved by the Control Officer.

(51.16) 040.075 GASOLINE LOADING INTO TANK TRUCKS AND TRAILERS

It is unlawful for any person to load gasoline into any tank truck or trailer from any loading facility unless such loading facility is equipped with, and uses, either a submerged fill pipe or a vapor collection system, properly installed, and in a good working order.

This chapter shall not apply to the loading of gasoline into tank trucks and trailers from any loading facility from which not more than 500 gallons of gasoline are loaded in any one day.

(51.16) 040.080 GASOLINE UNLOADING FROM TANK TRUCKS AND TRAILERS INTO UNDERGROUND STORAGE TANKS

It is unlawful for any person to unload, or cause to be unloaded, gasoline from any tank truck or trailer into underground storage tanks unless these tanks are equipped with a permanent submerged fill pipe, the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank. When unloading from tank truck or trailer, the hose connection to the tank fill pipe shall be a tight leakproof fill connection. For the purpose of Chapters 050.070, 040.075 and 040.080 "gasoline" is defined as any petroleum distillate having a Reid vapor pressure of four pounds or greater.

MOBILE EQUIPMENT

(12.0) 050.005 ORIGINAL EQUIPMENT

No person shall operate or leave standing on any highway any motor vehicle which is required by Federal Regulations to be equipped with motor vehicle pollution control devices unless such devices are correctly installed and in operating condition. No person shall disconnect, alter or modify any such required device. The provision of this Chapter shall not apply to an alteration or modification found by the State Board of Environmental Protection not to reduce the effectiveness of any required motor vehicle pollution control device. (NRS 484.644)

(12.0) 050.010 EQUIPMENT VIOLATION

Violation of Chapter 050.005 is a misdemeanor. Whenever any motor vehicle is found by the Control Officer, or his designee, to be in violation of Chapter 050.005, and notice to appear or citation is issued, it may require that the person named therein shall produce in court proof that such vehicle or its equipment has been made to conform to the provisions of Chapter 050.005. (NRS 484.6441)

(12.0) 050.015 VISIBLE EMISSION - GASOLINE POWERED EQUIPMENT

No gasoline-powered mobile equipment shall be operated which emits visible smoke while moving for a distance of more than 100 yards upon the streets, roads or highways of the State, or more than 15 continuous seconds if stationary.

(12.0) 050.020 VISIBLE EMISSIONS - DIESEL POWERED EQUIPMENT BELOW 5000 FOOT ELEVATION

No person shall operate a diesel-powered mobile equipment manufactured after January 1, 1970, below 5000 foot elevation, where the period of continuous visible emission exceeds the Ringelmann No. 1 standard or its equivalent opacity for more than 15 seconds. Diesel-powored mobile equipment manufactured prior to January 1, 1970, shall not exceed the Ringelmann No. 2 standard or its equivalent opacity for more than 15 continuous seconds.

(12.0) 050.025 VISIBLE EMISSIONS - DIESEL POWERED EQUIPMENT ABOVE 5000 FOOT ELEVATION

Diesel-powered mobile equipment operating above a 5000 foot elevation shall not exceed a Ringelmann No. 2 standard or its equivalent opacity for more than 15 continuous seconds.

(12.0) 050.030 VISIBLE EMISSIONS - MOBILE EQUIPMENT USED EXCLUSIVELY UPON STATIONARY RAILS BELOW 5000 FOOT ELEVATION

Unless otherwise provided for by federal regulation, no person shall operate mobile equipment manufactured after January 1, 1970, used exclusively upon stationary rails below 5000 foot elevation where the period of continuous emission is of an opacity greater than 40 percent for more than 15 consecutive seconds.

Mobile equipment manufactured prior to January 1, 1970, used exclusively upon stationary rails shall not exceed an opacity greater than 60 percent for more than 15 consecutive seconds. Effective January 1, 1973, this Chapter 050.030 will be superseded by standards set forth in Chapter 050.020.

(12.0) 050.035 VISIBLE EMISSIONS - MOBILE EQUIPMENT USED EXCLUSIVELY UPON STATIONARY RAILS ABOVE 5000 FOOT ELEVATION

Unless otherwise provided for by federal regulation, mobile equipment used exclusively upon stationary rails operated above a 5000 foot elevation shall not exceed an opacity greater than 60 percent for more than 15 consecutive seconds. Effective January 1, 1973, this Chapter 050.035 will be superseded by standards set forth in Chapter 050.025.

EMERGENCY EPISODE PLAN

(8.0) 060.005 GENERAL

This emergency regulation is designed to prevent the excessive buildup of air contaminants and to avoid any possibility of a catastrophe caused by toxic concentrations of air contaminant.

The Control Officer deems it desirable to have ready an adequate plan to prevent such an occurrence, and in case of the happening of this unforeseen event, to provide for adequate actions to protect the health of the citizens in the Health District.

(8.0) 060.010 EMERGENCY AUTHORITY TO ACT

If and when the Control Officer finds that either a generalized condition of air pollution or the operation of one or more particular sources of air contaminant is causing imminent danger to human health or safety, he may, with concurrence of the District Health Officer, order the person or persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants.

If and when air contaminant levels reach the limits set forth in Chapter 060.040, the Control Officer will take the necessary action as prescribed by each alert stage.

If the Control Officer exercises power conferred in Chapter 060.010, said order shall expire by limitation 24 hours after it takes effect unless sooner affirmed, modified or set aside by the Hearing Board.

(8.0) 060.015 SAMPLING STATION AND AIR SAMPLING

The Washoe County District Health Department shall maintain at least one station in the downtown Reno area which will produce continuous and recorded air quality data on the air contaminants capable of causing an air pollution emergency. The Control Officer shall establish procedures whereby adequate sampling and analyses of air contaminants will be taken at each sampling station.

(8.0) 060.020 REPORTS

The Washoe County District Health Department shall make daily summaries of the readings required by Chapter 060.015. The summaries shall be in such form as to be understandable by the public. These summaries shall be public records and immediately after preparation shall be filed at the Washoe County District Health Department and be available to the public, press, radio, television, and other mass media of communication.

(8.0) 060.025 CONTINUING PROGRAM OF VOLUNTARY COOPERATION

The Control Officer shall inform the public of ways in which air pollution can be reduced and shall request voluntary cooperation from all persons in all activities which contribute to air pollution. Civic groups shall be encouraged to undertake campaigns of education and voluntary air pollution reduction in their respective communities. Public officials shall be urged to take promptly such steps as may be helpful to reduce air contaminants to a minimum within the areas of their authority. Employers shall be requested to establish car pools. Users of motor vehicles shall be urged to keep motors in good condition. All industrial, commercial and business establishments which emit hydrocarbons or other air contaminants should critically study their operations from the standpoint of air contamination and shall take appropriate action voluntarily to reduce air pollution.

(8.0) 060.030 DECLARATION OF ALERTS

The Control Officer shall declare the appropriate "alert" whenever the concentration of any air contaminant has been verified to have reached standards set forth in Chapter 060.040.

(8.0) 060.035 NOTIFICATION OF ALERTS

Following the declaration of the appropriate "alert" the Control Officer shall communicate notification of the declaration of the alert to:

A. Washoe County Sheriff.

B. Sparks Police and Fire Departments.

C. Reno Police and Fire Departments.

D. The Air Pollution Control Hearing Board.

E. All Air Pollution Control Personnel.

F. Nevada Highway Patrol.

G. The general public through radio, television, and newspapers.

H. The District Board of Health and County Commissioners.

I. Other local public officials and public safety personnel who have responsibilities or interests in air pollution alerts.

(8.0) 060.040 ALERT STAGES FOR TOXIC AIR POLLUTANTS

(in parts per million of air)

	First Alert	Second Alert	Third Alert
Carbon Monoxide*	50	100	150
Nitrogen Oxides*	3	5	10
Sulfur Oxides*	3	5	10
Photochemical Oxidants (as Ozone)*	0.5	1.0	1.5
Hydrocarbons*	2	4	6

* How measured: By prescribed equipment manufacturers procedures and federal guidelines.

First Alert: Close approach to maximum allowable concentration for the population at large. Still safe but approaching a point where preventive action is required.

Second Alert: Air contamination level at which a health menace exists in a preliminary state.

Third Alert: Air contamination level at which a dangerous health menace exists.

(8.0) 060.045 FIRST ALERT ACTION

This is a warning alert and shall be called whenever the concentration of any contaminant has been verified to have reached the standards for the "first alert" as set forth in Chapter 060.040. The following action shall be taken upon the calling of the First Alert:

A. A person shall not burn any combustible refuse at any location within Washoe County in an open fire.

B. Any person operating or maintaining any industrial, commercial or business establishment other than power plants or heating plants essential to health or safety, which establishments emit hydrocarbons or any other of the contaminants named in Chapter 060.040, and any person operating any private non-commercial vehicle, shall, during the First Alert period, take the necessary preliminary steps to the action required should a Second Alert be declared.

C. The Control Officer shall, by the use of all appropriate mass media of communication, request the public to stop all unessential use of vehicles in Washoe County and to operate all privately owned vehicles on a pool basis, and shall request all employers to activate employee car pools.

D. When after the declaration of the First Alert it appears to the Control Officer that the concentration of any contaminants in all or any portion of the County is increasing in such a manner that a Second Alert is likely to be called he shall take the following actions:

    1. Notify the District Health Officer and request advice on actions to be taken.

    2. Give all possible notice to the public by all mass media of communication that a Second Alert may be called.

(8.0) 060.050 SECOND ALERT ACTION

This is a preliminary health hazard alert and shall be declared when an air contaminant has been verified to have reached the standards set forth for the "Second Alert" in Chapter 060.040.

The following action shall be taken upon the calling of the Second Alert:

A. The action set forth in Chapter 060.045.

B. Pursuant to this alert, the Control Officer may impose limitations as to the general operation of vehicles permitting limited operation essential to accomodate industry, business, public utility and other services as may be necessary in the public welfare.

C. In the event the control measures made effective under paragraph B. above prove to be inadequate to control the increase in the concentration of air contaminants, the Control Officer with the approval of the District Health Officer shall take such steps as he may deem necessary to assure adequate control of existing air contaminants and to protect the health and safety of the public, but, if possible, without employing such drastic remedial measures as to completely disrupt the economic life of the community or to result in irreparable injury to any form of production, manufacture or business. The Control Officer may, with the concurrence of the District Health Officer, order the closing of any industrial, commercial or business establishment and stop all vehicular traffic, except authorized emergency vehicles as defined in the Nevada Vehicle Code, vehicles used in public transportation and vehicles the operation of which is necessary for the protection of the health and welfare of the public, if, in the opinion of the Control Officer the continued operation of such establishment or vehicle contributes to the further concentration of any air contaminant, the concentration of which caused the declaration of the "alert".

The Control Officer during a Second Alert, shall keep the public suitably informed of all significant changes in the concentration of toxic air contaminants.

(8.0) 060.055 THIRD ALERT ACTION

This is a dangerous health hazard alert and shall be declared when an air contaminant has been verified to have reached the standards set forth for the "Third Alert" in Chapter 060.040.

The following action shall be taken upon the calling of the Third Alert:

A. The actions set forth in Chapter 060.050.

B. If it appears that the steps taken by the Control Officer will be inadequate to cope with the emergency, the Control Officer shall, with the approval of the District Health Officer, request the Governor to declare that a state of emergency exists and to take appropriate actions.

(8.0) 060.060 END OF ALERT

The Control Officer shall declare the termination of the appropriate alert whenever the concentration of an air contaminant which caused the declaration of such alert has been verified to have fallen below the standards set forth in Chapter 060.040 for the calling of such alert and the available scientific and meteorological data indicates that the concentration of such air contaminant will not immediately increase again so as to reach the standards set forth for such alert in Chapter 060.040. The Control Officer shall immediately communicate the declaration of the termination of the alert in the manner provided in Chapter 060.030 for the declaration of alerts.

CLARK COUNTY, NEVADA

EPA - APPROVED REGULATIONS

DISTRICT BOARD OF HEALTH OF CLARK COUNTY

AIR POLLUTION CONTROL REGULATIONS

WHEREAS, it is recognized that there has been a growth in the amount and complexity of air pollution in Clark County, Nevada, brought about by, and incident to, the population growth of and industrial development in the said County, which conditions are likely to be aggravated and compounded by additional population growth and industrial development in the future, all resulting in serious potential danger to the public health and welfare of the residents of said County, and substantial injury to or interference with the reasonable use and enjoyment of property and the conduct of business therein, as well as injury to agricultural crops and livestock, and hazards to air and ground transportation; and

WHEREAS, it is the responsibility of the District Board of Health of Clark County to promote and protect the health and welfare of the inhabitants of this County, which necessitates the control and regulation of activities affecting the quality of the air therein; and

WHEREAS, it is the public policy of Clark County and the purpose of these Regulations to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of Clark County; and

WHEREAS, it is the intent of these Regulations to:

(a) Require the use of reasonably available methods to prevent, reduce or control air pollution throughout Clark County;

(b) Maintain cooperative programs;

(c) Facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within a single jurisdiction; and

WHEREAS, the quality of air is declared to be affected with the public interest and these Regulations are enacted in the exercise of the police power of this county and the municipal entities comprising the Health District to protect the health, peace, safety and general welfare of its people as required by State law; and

WHEREAS, the District Board of Health has initiated and conducted an Air Pollution Control program, including a comprehensive air monitoring program for the purpose of determining air quality standards and source emission standards; and

WHEREAS, the need for control of air contaminants, and the emission thereof at their source, was first determined by an air pollution survey of Clark County conducted in 1962 and 1963, the findings of which survey and the problems identified therein having been confirmed by subsequent measurements and experience gained in the conduct of an Air Pollution Control program established pursuant to authority vested in the Clark County District Board of Health by the 1967 session of the legislature of the State of Nevada; and

WHEREAS, the Clark County District Board of Health has taken into consideration all of the facts and circumstances bearing upon the reasonableness of the emission of air contaminants in the area, including but not limited to:

(a) The character and degree of injury to or interference with health and property or the reasonable use and enjoyment of property or conduct of business;

(b) The social and economic value of the source of air contaminants;

(c) The technical practicability and economic reasonableness of reducing or eliminating the emission of air contaminants from such source;

(d) The location involved, the density of population, the atmospheric condition, and the relationship of the emissions to the general air pollution condition of the area;

(e) The cost and effectiveness of control equipment available; and

(f) Efforts previously made and the equipment previously installed to control or decrease such emissions; and

WHEREAS, recent developments in State and Federal law, as well as developing air pollution control technology, and the need for more precise and equitable standards and procedures, require the updating and amendment of the current Air Pollution Control Regulations of the District Board of Health of Clark County;

NOW, THEREFORE, the District Board of Health of Clark County, in accordance with the authority vested in it by Chapter 445 of Nevada Revised Statutes, does hereby adopt, promulgate and order compliance therewith within Clark County, Nevada, the following amended Regulations, to be known as "Air Pollution Control Regulations."

DISTRICT BOARD OF HEALTH OF CLARK COUNTY

AIR POLLUTION CONTROL REGULATIONS

(1.0) SECTION 1. DEFINITIONS

In these Regulations, unless the context otherwise requires:

1. "Agricultural Operations" means the growing of crops for profit or the growing of crops for the purpose of providing life support to a considerable number of people, animals, or fowl.
2. "Air Contaminant" means any substance discharged into the atmosphere except water vapor or water droplets.
3. "Air Pollution" means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in such quantity and duration as may tend to:
   a. Injure human health or welfare, animal or plant life or property.
   b. Limit visibility or interfere with scenic, esthetic and historic values of the state.
   c. Interfere with the enjoyment of life or property.
4. "Air Pollution Control Committee" means five (5) members selected from the District Board of Health of Clark County to perform the functions set forth in these Regulations.
5. "Ambient Air" means that portion of the atmosphere surrounding people, animal, plant life, and buildings.
6. "Atmosphere" means the portion of air which envelops the earth that is not contained in any enclosed building or structure.
7. "Board" means the District Board of Health of Clark County.
8. "British Thermal Unit" means that quantity of heat required to raise the temperature of one pound of water from 62° Fahrenheit.
9. "Chemical Process" means a manufacturing operation in which one or more changes in chemical composition, chemical properties, or physical properties are involved.
10. "Combustible Refuse" means any waste material which can be consumed by combustion.

11. "Commercial Fuel Oil" means a liquid or liquefiable petroleum product normally produced, manufactured, used, or sold for the purpose of creating useful heat.

12. "Diesel Fuel" means a low viscosity oil normally used in compression ignition engines.

13. "Dust" means minute solid particles released into the atmosphere by natural forces or by mechanical or chemical processes.

14. "Emission" means any air contaminant passed into the atmosphere.

15. "Existing Source" means any source of air contaminant on which construction has begun prior to October 21, 1971.

16. "Fuel" means any form of combustible matter (solid, liquid, vapor, or gas), excluding combustible refuse.

17. "Fuel-Burning Equipment" means any device used for the burning of fuel for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with any other materials.

18. "Fugitive Dust" means solid airborne particulate matter emitted from any source other than a flue or stack.

19. "Fumes" means minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or may be generated by sublimation, distillation, calcination, or chemical reaction, when these processes create airborne particles.

20. "Garbage" means putrescible animal or vegetable refuse.

21. "Gas" means matter which has neither independent shape nor volume and tends to expand indefinitely.

22. "Health Department" means the District Health Department of Clark County.

23. "Hearing Board" means five (5) members appointed by the Board of Health to perform the functions set forth in the Nevada Revised Statutes and these Regulations.

24. "Incinerator" means a combustion device specifically designed for the destruction, by high temperature burning, of combustible refuse and from which the solid residues contain little or no combustible material.

25. "Mist" means liquid particulates or droplets, about the size of raindrops, such as fog, that are formed by condensation of vapor, or atomization of a liquid by mechanical spraying.

26. "Motor Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails.

27. "Multiple Chamber Incinerator" means any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refactory-lined combustion furnaces in series, physically separated by refactory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

28. "New Source" means any source of air contaminant on which construction has begun after October 21, 1971.

29. "Nuisance" means anything which is injurious to health, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the reasonable or comfortable enjoyment of life or property.

30. "Odor" means those qualities of matter which make it perceptible to the olfactory senses of man.

31. "Opacity" is that property of a substance tending to obscure vision and is measured in terms of percent obscuration. The relationship between opacity and Ringelmann number is:

Ringelmann No.	Opacity (Percent)
1	20
2	40
3	60
4	80
5	100

32. "Open Fire" means any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney.

33. "Operating Permit" is a document issued and signed by the Control Officer, authorizing the operation of a new or existing single source of air contaminant.

34. "Particulate Matter" means any material except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.

35. "Person" means the State of Nevada and any individual, group of individuals, partnership, firm, company, corporation, association, trust, estate, political subdivision, administrative agency, public or quasi-public corporation, or other legal entity.

36. "Process Equipment" means any equipment used for storing, handling, transporting, processing, or changing any materials whatever by excluding that equipment specifically defined in these Regulations as fuel-burning equipment or incinerators.

37. "Process Weight" means the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. "Process Weight Per Hour" will be derived by dividing the total process weight by the number of hours in one complete operation thereof, excluding any time during which the equipment is idle.

38. "Registration Certificate" is a document issued by the Control Officer which certifies the receipt of adequate data on a single source of air contaminant, and that the prescribed registration fee has been paid. For new sources, it shall constitute approval of location.

39. "Single Source" means all similar process operations located at a single contiguous property which can technically be replaced by a single process that performs the same function.

40. "Smoke" means the product of incomplete combustion, consisting chiefly of particles of unburned carbon.

41. "Source of Air Contaminant" means anything which emits any air contaminant.

42. "Special Mobile Equipment" does not include house trailers, dump trucks, truck-mounted transit mixers, or other vehicles designed for the transportation of persons or property to which machinery has been attached. Special mobile equipment may include but is not limited to graders, scrapers, bulldozers, and other construction equipment.

43. "Stack" means a stack, chimney, flue, duct, or other opening for purposes of carrying smoke, dust, gas, vapor, or odor into the open air.

44. "Standard Commercial Equipment" means equipment manufactured in quantity for the purpose intended and completely specified as to size, type, and ratings in catalogs, and other printed literature readily available locally to officials within Clark County.

45. "Standard Conditions" means when applied to gases, a gas temperature of 60 degrees Fahrenheit, and a gas pressure of 14.7 pounds per square inch absolute. A standard foot of gas is that volume of gas which

occupies a cubic foot under the standard conditions as herein specified.

46. "Stop Order" is a written notice by the Control Officer served on a person or persons engaged in the doing or causing the construction, installation or alteration or work involving an air contaminant source or sources ordering such work to be stopped.

47. "Uncombined Water" means a visible mist of condensed water vapor.

48. "Vapor" means the gaseous phases of a substance which at normal temperatures and pressures is a liquid or solid.

49. "Waste" means useless, unneeded, or superfluous matter; discarded or excess material.

(2.0) SECTION 2. AIR POLLUTION CONTROL BOARD

The Board of Health will function as the Air Pollution Control Board of Clark County and the incorporated cities in Clark County.

(2.0) SECTION 3. AIR POLLUTION CONTROL BOARD POWERS

The Board shall:

1. Select an Air Pollution Control Committee of five (5) from among its members. One member shall be a member from the County, and the other members shall consist of one member from each of the incorporated areas.

2. Designate a "Control Officer" to enforce the Air Pollution Control Regulations hereinafter contained.

3. Appoint an Air Pollution Control Hearing Board consisting of five (5) members who are not employees of the State, nor any political subdivision of the State. One member of the Hearing Board shall be an attorney admitted to practice law in Nevada, and one member shall be a professional engineer registered in Nevada.

4. Powers and responsibilities provided for in Chapters 445.461, 445.476 to 445.536, inclusive, 445.571 to 445.581, inclusive, and 445.601, of Nevada Revised Statutes, shall be binding upon and shall inure to the benefit of the Board of Health.

The Board may:

5. Subject to the provision of Chapter 445.466 of the Nevada Revised Statutes, adopt, amend, or modify rules and regulations consistent with the general intent and purposes of Chapters 445.401 to 445.601, inclusive, and in accordance with Chapter 233B of Nevada Revised Statutes to prevent, abate and control air pollution.

6. Make such determinations and issue such orders as may be necessary to implement the purposes of these Regulations.

7. Establish air quality standards.

8. Institute legal proceedings in a court of competent jurisdiction to prevent continued violation of any order issued by the Board of Health, Hearing Board or Control Officer and to enforce the provisions of these Regulations.

9. Require access to records relating to emissions which cause or contribute to air pollutions.

10. Apply for and receive grants or other funds or gifts from public or private agencies.

11. Cooperate and contract with other governmental agencies, including states and the Federal Government.

12. Conduct investigations, research and technical studies consistent with the general purposes of these Regulations.

13. Establish such emission control requirements as may be necessary to prevent, abate or control air pollution.

14. Require the registration of air pollution sources together with a description of the processes employed, fuels used, nature of emissions and other information considered necessary to evaluate the pollution potential of a source.

15. Prohibit as specifically provided in Section 9 of these Regulations the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution.

16. Require the submission of preliminary plans and specifications, and other information as the Board of Health deems necessary to process permits.

17. Enter into and inspect at any reasonable time any premise containing an air contaminant source or a source under construction for purposes of ascertaining the state of compliance with these Regulations.

18. Hold hearings for purposes of implementing these Regulations except as otherwise provided herein.

19. Review recommendations of the Hearing Board and take such additional evidence as the Board of Health deems necessary or remand to the Hearing Board for such evidence as the Board of Health may direct.

20. Establish fuel standards for both stationary and mobile sources of air contaminants.

21. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.

22. Specify the manner in which incinerators may be constructed and operated.

23. Delegate all powers, except subsections 5, 7, 18, 20 and 22 to the Control Officer or his representatives as may be necessary to implement these Regulations.

24. Require installation or alteration of an air contaminant detector, air contaminant recorder, combustion controller, or combustion shutoff on any source of air contaminant.

(2.0) SECTION 4. AIR POLLUTION CONTROL COMMITTEE

The Committee shall:

1. Serve at the pleasure of the Air Pollution Control Board, and from its members shall elect a Chairman, Vice Chairman, and any other officers as it deems necessary, and shall meet at the request of the Air Pollution Control Board, or on its own initiative.

2. Assist the Control Officer in determining facts and making investigations into violations of the Regulations contained herein.

3. Advise the Air Pollution Control Board of the necessity of the adoption of any additional air pollution control regulations, or of the necessity to amend any existing Air Pollution Control Regulations.

(2.0) SECTION 5. CONTROL OFFICER

1. The administrative enforcement of these Regulations shall be performed by the Control Officer.

2. The Control Officer, or his designated agent, shall carry out the policies of the Air Pollution Control Board, and each of the Control Officer's acts shall be subject to review by the Air Pollution Control Board.

3. a. The Control Officer, or his representative may enter into and inspect any property, premise or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with these Regulations.

   b. No person shall:

      (1) Refuse entry or access to any authorized representative of the Board of Health who requests entry for purposes of inspection, as provided in this Section, and who presents appropriate credentials;

(2) Obstruct, hamper or interfere with any such inspection.

c. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

4. The Control Officer at any time may require from any person, such information or analyses as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged by such source, and type or nature of control equipment in use, and may require that such disclosures be certified by a professional engineer registered in the State. In addition to such report, the Control Officer may designate an authorized agent to make an independent study and report as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from the source. An authorized agent so designated is authorized to inspect any article, machine, equipment, or other contrivance necessary to make the inspection and report.

5. The Control Officer may require any person responsible for emission of air contaminants to make or have made tests to determine the emission of air contaminants from any source, whenever the Control Officer has reason to believe that an emission in excess of that allowed by the Air Pollution Control Regulations is occurring. The Control Officer may specify testing methods to be used in accordance with good professional practice. The Control Officer may observe the testing. All tests shall be conducted by reputable, qualified personnel. The Control Officer shall be given a copy of the test results in writing and signed by the person responsible for the tests.

6. The Control Officer may conduct tests of emissions of air contaminants from any source. Upon request of the Control Officer, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.

7. a. Whenever the Control Officer believes that a statute or regulation for the prevention, abatement or control of air pollution has been violated, he shall cause written notice to be served in person or by certified mail upon the person or persons responsible for the alleged violation.

b. The notice shall specify:

(1) The statute or regulation alleged to be violated;

(2) The facts alleged to constitute the violation.

c. The notice may include an order to take corrective action within a reasonable time, which shall be specified. Such an order becomes final unless within 10 days after service of the notice, a person named in the order requests a hearing before the Hearing Board.

d. Without the issuance of an order pursuant to subsection c., or if corrective action is not taken within the time specified:

(1) The Control Officer may notify the person or persons responsible for the alleged violation to appear before the Hearing Board at a specified time and place; or

(2) The Control Officer may initiate proceedings before the Hearing Board for the levying of the appropriate fine.

8. Upon a finding by the Hearing Board that a person has not complied with the terms of an order, or upon the levying of a fine by the Hearing Board, the Control Officer, in the name of the Board of Health, may initiate action in the District Court or other court of competent jurisdiction for injunctive relief, to collect the fine levied, or for other appropriate remedy.

9. It is a condition of the issuance of an operating permit or any registration required by these Regulations that the registrant or holder agrees to permit inspection of the premises to which the permit or registration relates by the Control Officer at any time during the registrant's or holder's hours of operation without prior notice. This condition shall be stated on each registration or application form and operating permit.

10. If a source of air contaminant exists or is constructed without registration or is operated without an operating permit, the Control Officer may inspect it at any reasonable time, and may enter any premises to search for such a source. If entry is refused, or prior to attempting to enter, the Control Officer may apply to any magistrate for a search warrant.

11. The Control Officer shall maintain all procedural forms and instructions pertaining to procedures set forth in these Regulations, and shall make such forms and instructions available upon request of any interested party.

(16.0) SECTION 6. HEARING BOARD

1. The Hearing Board shall select a Chairman and Vice Chairman and such other officers as it deems necessary, and subject to the approval of the Air Pollution Control Board, may adopt a manual of procedures to govern its operation.

2. Members of the first Hearing Board shall serve the following terms: Two shall be appointed for a term of one year; two shall be appointed

for a term of two years; and one shall be appointed for a term of three years. The succeeding appointments shall be for a term of three years.

3. a. Any person aggrieved by:

   (1) The issuance, denial, renewal, suspension or revocation of an operating permit; or

   (2) The issuance, modification or rescission of any other order by the Control Officer may appeal to the Hearing Board.

   b. The Hearing Board shall decide the appeal, and may order the affirmance, modification or reversal of any action taken by the Control Officer which is the subject of the appeal.

   c. The Hearing Board shall provide by rule for the time and manner in which appeals are to be taken to the Board. Appeals from any order issued pursuant to Section 5.7.c. shall be made in writing within ten (10) days of issuance.

   d. Any decision or order of the Hearing Board may be appealed as provided in Chapter 445.591 of NRS.

4. If a hearing upon an alleged violation is held, the Hearing Board shall:

   a. If it finds that a violation has occurred:

   (1) Affirm or modify an order previously issued by the Control Officer; or

   (2) Issue an order for abatement, control or other appropriate corrective action; or

   (3) Levy such fine that it deems appropriate to the violation, in accordance with Section 25 of these Regulations.

   b. If it finds that no violation has occurred, rescind any order previously issued by the Control Officer.

5. The Hearing Board shall meet within thirty (30) days after receipt of a request by the Air Pollution Control Board, the Air Pollution Control Committee, the Control Officer, or on its own initiative.

6. The Chairman, or in his absence the Vice Chairman of the Hearing Board, may issue subpoenas to compel attendance of any person at a hearing, and require the production of books, records, and other documents material to a hearing.

7. Three members of the Hearing Board must be present to hold a hearing, and a majority of those present must concur in any decision.

8. All testimony must be given under oath and recorded verbatim, by human or electronic means. Upon request, the Chairman shall provide for a transcript at the expense of the requesting party.

9. Hearing Board Proceedings are governed by Chapter 233B of NRS as it relates to contested cases, except as otherwise provided in these Regulations.

10. The Hearing Board may revoke or modify an order, or a variance, only after first holding a hearing of which at least thirty (30) days public notice has been given, unless otherwise specified in these Regulations.

11. a. The owner or operator of a source of air contaminant or a person who desires to establish such a source may apply to the Hearing Board for a variance. There shall be a $10.00 fee for filing any request for a variance. The Hearing Board may grant a variance only if, after public hearing on due notice, it finds from a preponderance of the evidence that:

    (1) The emissions occurring or proposed do not endanger or tend to endanger human health or safety; and

    (2) Compliance with the Regulations would produce serious hardship without equal or greater benefits to the public.

    b. A variance shall not be granted unless the Hearing Board has considered the relative interests of first, the public; second, other owners of property likely to be affected by the emissions; and last, the applicant.

    c. The Hearing Board may in granting a variance impose appropriate conditions upon an applicant, and may revoke the variance for failure to comply.

12. a. A variance may be renewed only under circumstances and upon conditions which would justify its original granting.

    b. Application for any renewal must be made at least sixty (60) days prior to expiration of the variance to be renewed, and the Hearing Board shall give public notice of the application.

    c. If a protest is filed with the Hearing Board against the renewal, the Hearing Board shall hold a public hearing and shall not renew the variance unless it makes specific, written findings, of fact which justify the renewal.

13. a. The following limitations of duration apply to all variances:

(1) If the variance is granted because no practical means is known or available for prevention, abatement or control of the air pollution involved, the variance shall continue only until such means become known and available.

(2) If the variance is granted because compliance with applicable regulations will require measures which, because of extent or cost, must spread over a period of time, the variance shall be granted only for the requisite period as determined by the Hearing Board, and shall specify the time when the successive steps are to be taken.

(3) If the variance is granted for any other reason, it shall be granted for one (1) year or less.

b. A variance whose duration is limited by paragraph (1) or (2) of subsection a. shall be reviewed at least once each year to determine whether practical measures have become available or required steps have been taken.

14. a. No applicant is entitled to the granting or renewal of a variance as of right.

b. Judicial review may be had of the granting or denial of a variance as provided in Chapter 445.591 of NRS.

15. a. Any interested person may request a hearing before the Hearing Board for a declaratory order or advisory opinion as to the applicability of these Regulations, or of actions by the Board of Health, or the Control Officer.

16. Any interested person may file a petition with the Hearing Board for a declaratory order or advisory opinion as to the applicability of these Regulations, or of actions by the Board of Health, or the Control Officer.

(8.0) SECTION 7. EMERGENCY PROCEDURES

1. If the Control Officer determines that either a generalized condition of air pollution or the operation of one or more particular sources of air contaminant is causing or may cause imminent danger to human health or safety, he may declare that an episode condition such as an alert, warning or an emergency exists. The Control Officer may order the prohibition, restriction, reduction or discontinuance of the emissions of any air contaminant which is causing or may cause aggravation of the condition. The Control Officer shall utilize Section 6 of the Air Quality Implementation Plan for the State of Nevada which is entitled, EMERGENCY EPISODE PLAN, as a guide for actions during an episode condition.

2. Any order issued pursuant to subsection 1 above, shall expire by limitation 24 hours after it takes effect, unless affirmed and extended, modified or set aside by the Hearing Board within that period of time.

3. Enforcement of restrictions on motor vehicle operation may be carried out by Law Enforcement Agencies having jurisdiction within incorporated or unincorporated areas of the Health District.

4. The owner or operator of any stationary source which emits 100 short tons (90.7 metric tons) or more per year of any air contaminant shall prepare and submit to the Control Officer a standby plan for reducing or eliminating emissions of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency as defined in the Emergency Episode Plan.

   a. Each such plan shall be submitted within 90 days of this regulation and shall be subject to review and approval of the Control Officer. Any such plan will be approved unless the Control Officer notifies the owner or operator within 60 days that such plan has been disapproved. The Control Officer will set forth reasons for any disapproval.

   b. The provision of paragraph a. of this subsection shall supercede that contained as part of the EMERGENCY EPISODE PLAN which relates to the time of submittal of standby plans.

   c. Each such plan shall identify the air pollutants emitted by the source, the specific facility from which each air pollutant is emitted, the manner in which reduction of emissions will be achieved during an Air Pollution Alert, Warning, or Emergency, and the approximate reduction in emissions to be achieved by each reduction measure.

   d. During an Air Pollution Alert, Warning or Emergency a copy of such plan shall be made available on the source premises for inspection by the Control Officer.

5. Upon notification by the Control Officer that an Air Pollution Alert, Warning or Emergency has been declared, the owner or operator of each source which has a standby plan approved by the Control Officer shall implement the emission reduction measures specified in such plan.

6. Any owner or operator of a stationary source not subject to the requirements of subsection 1 of this section shall, when requested by the Control Officer in writing, prepare and submit a standby plan in accordance with this section.

(3.0) SECTION 8. REGISTRATION AND OPERATING PERMITS

1. Any person who causes, lets, permits, suffers, or allows the emission of air contaminants, whether or not limits are established by these Regulations for emission of such contaminants, shall file with the Control Officer, on forms provided by the Control Officer, the following information:

   a. Name and address of business.

   b. Nature of business.

   c. Name of local person responsible for compliance with these Regulations.

   d. Information on methods of refuse disposal.

   e. Information on fuel used for space heat, process heat, or power generation.

   f. A description of the specific nature and quantity of the air contaminants emitted, together with corresponding location or locations of the sources.

   g. Any such other information as may be requested by the Control Officer necessary to determine compliance with these Regulations.

2. The following sources of emission of air contaminants shall be exempt from the registration provision of this section:

   a. Internal combustion engines installed in motor vehicles and special mobile equipment, or any engine used solely as a standby source of motor power.

   b. Natural gas fired or liquefied petroleum gas fired or oil fired equipment (burning No. 1 and No. 2 fuel oil), furnaces, boilers, water heaters or steam generators, having not over one million BTU's per hour total input.

3. Registration Certificates issued by the Control Officer shall not be deemed to be an acceptance or approval of any article, machine, equipment, process or other contrivance listed on said Registration Certificate by the Control Officer, or his agent. Nor shall the issuance of said Registration be construed to show compliance on the part of the Registrant with the Regulations contained herein, limiting the emission of air contaminants into the atmosphere.

4. The Registrant shall provide any information regarding the emission of air contaminants into the atmosphere as the Control Officer may require, and said Registrant shall maintain such registration in current status by notifying the Control Officer of any significant change in any item of information furnished in compliance herewith.

5. The lack of emission limits or controls in these Regulations for items requiring a Registration Certificate shall not be a bar to the requirement for said Certificate.

6. Registration Certificates shall be renewed annually on February 24th of each year, and will require an annual fee as listed in Section 10 of these Regulations.

7. A person who has been granted a Registration Certificate to operate any article, machine, equipment, process, or other contrivance shall display such Registration Certificate in a room or office on the premises readily accessible to Air Pollution Control personnel from the Health Department for inspection or examination, and reasonably close to the equipment or other contrivance which is the subject of such Registration Certificate.

8. No person shall willfully deface, alter, forge, counterfeit, or falsify a Registration Certificate to operate any article, machine, equipment, process, or other contrivance.

9. A Registration Certificate shall not be transferable, by operation of law or otherwise, from one location to another, nor from one piece of equipment to another, but it may be transferred from one person to another upon payment of the required fee.

10. No person shall cause, suffer, or allow the operation of any item requiring a Registration Certificate unless an Operating Permit for such operation has been issued by the Control Officer, and such permit is current and valid.

11. The Control Officer shall issue an Operating Permit to any existing source which is operated in compliance with these and all applicable State and Federal Regulations.

12. The Control Officer may issue an Operating Permit on a conditional basis, to any new source requiring some reasonable time for initial testing, or to any existing source which is not in compliance with applicable emission limitations, but which has had a compliance schedule or variance approved by the Hearing Board.

13. The Operating Permit may be issued only after application is made on forms provided by the Control Officer.

14. Operating Permits are subject to revocation or suspension for violation of these Regulations. Upon a determination by the Control Officer that a permittee is in violation of these Regulations, the Control Officer may serve upon the permittee at the address given on the Registration Certificate, through personal service or by certified mail, a Notice of Suspension or Revocation of Operating Permit, setting forth in detail the violations charged. Such suspension or revocation shall become final and effective ten (10) days

after service of the written notice, and the Operating Permit thereupon surrendered to the Control Officer, unless the permittee files with the Hearing Board, in writing, within ten (10) days after service of the Notice of Suspension or Revocation, an Appeal from such action of the Control Officer. The filing of such appeal shall stay the suspension or revocation of the permit pending a decision thereon by the Hearing Board. The Hearing Board shall meet to decide the appeal no later than thirty (30) days after the filing of the permittee's appeal, and after public hearing on said appeal, affording the permittee and the Control Officer full opportunity to present evidence and testimony, may affirm, modify or set aside the action taken by the Control Officer. For this purpose, public notice of less than thirty (30) days may be given of such appeal hearing.

(10.0) SECTION 9. NEW AND MODIFIED SOURCES

1. No person shall install or construct any new stationary source, or make modifications to any existing source which will increase or change the effects or characteristics of air contaminants discharged, or install an air cleaning device, unless a Registration Certificate therefor has been issued by the Control Officer.

   a. Application for Registration shall be made on forms furnished by the Control Officer.

   b. A separate application is required for each source.

   c. Each application shall be accompanied by a report and plans, which contain site information, stack data, and the nature and amount of emissions. The information shall be sufficient in scope to enable the Control Officer to make any determination pursuant to the requirements of Section 9.4 of these Regulations.

   d. Each application and report shall be signed by the applicant, and when required by the Control Officer, shall be certified by a licensed professional engineer as to the accuracy of the technical information concerning the equipment and/or control device contained in the report. The signature of the applicant shall constitute an agreement that the applicant shall assume responsibility for the capability of the new source and/or control device to comply with the Regulations when in operation.

   e. Any additional information, plans, specifications, evidence or documentation relating to emissions or control of emissions that the Control Officer may require shall be furnished upon request.

   f. Any changes or alterations to the plans or report affecting the emission from the source shall be reported to the Control Officer and shall be approved prior to implementation.

2. No Registration Certificate will be issued unless the Control Officer has approved the location of the source, and the applicant shows to the satisfaction of the Control Officer that the source will not prevent or interfere with attainment or maintenance of Air Quality Standards set forth in these Regulations.

3. The Control Officer shall act within reasonable time on an application.

4. If at any time prior to issuing an operating permit the Control Officer determines that:

   a. The proposed construction, installation, alteration, or establishment will not be in accordance with the provisions of the plans, specifications, and other design material required to be submitted under these Regulations; or

   b. The design or the construction itself is of such a nature that it patently cannot bring such source into compliance with these Regulations, he shall issue a Stop Order prohibiting the construction, installation, establishment, or alteration of the source.

5. The Stop Order shall set forth the reasons for its issuance and the effective time and date. The Hearing Board shall meet within ten (10) days of filing of an appeal to review the action of the Control Officer in accordance with the provisions of Section 6 of these Regulations.

6. The Control Officer may cancel a Registration Certificate issued under this section if the construction is not begun within one year of date of issuance, or if during construction work is suspended for one year. If said Registration Certificate is cancelled, any fees paid shall be forfeit.

7. A Registration Certificate shall not relieve any owner or operator of the responsibility to comply with all applicable local, State, and Federal Regulations.

8. The relocation, construction or modification of an air contaminant source and/or control device is done at the owner's risk, and does not relieve him from complying with these Regulations.

9. New equipment or changes of process capable of becoming a source of air pollution shall be provided with the maximum control capability which is technically practicable.

10. The provisions of this section shall apply to all air contaminant sources within Clark County except those specifically mentioned below:

    a. Comfort heating equipment with a gross heat input of less than one million BTU's per hour.

    b. Comfort ventilating systems.

c. Internal combustion engines and vehicles used for transport of passengers or freight.

d. Unit space heaters.

e. Vacuum cleaning systems used exclusively for residential or commercial housekeeping.

(3.0) SECTION 10. ANNUAL REGISTRATION FEES

1. Fuel-Burning Equipment

a. Less than 10 million BTU's per hour	$ 10.00
b. Equal to or more than 10 million but less than 100 million BTU's per hour	$ 50.00
c. Equal to or more than 100 million but less than 1,000 million BTU's per hour	$ 100.00
d. Equal to or more than 1,000 million BTU's per hour	$ 1,000.00

2. Incinerators

a. Less than 500 pounds per hour	$ 50.00
b. Equal to or more than 500 but less than 1,000 pounds per hour	$ 100.00
c. Equal to or more than 1,000 pounds per hour	$ 200.00

3. Process Equipment or Chemical Process

a. Employing less than twenty-five people	$ 100.00
b. Employing twenty-five or more people but less than fifty people	$ 200.00
c. Employing fifty people or more	$ 1,000.00

4. Stationary tank, reservoir, or other container, of more than 40,000 gallons capacity containing gasoline or any petroleum distillate having a vapor pressure of 1.5 pounds per square inch absolute, or greater	$ 50.00

(9.0) (13.0) SECTION 11. SAMPLING AND TESTING - RECORDS AND REPORTS

1. Any person operating any article, machine, equipment, or other contrivance for which registration is required by these Regulations, shall permit the Control Officer, or his agent, to install and maintain sampling and testing facilities as are reasonable and necessary for measurement of emissions of air contaminants. Where existing facilities for sampling or testing are inadequate, the Control Officer may, in writing, require the Registrant to provide and maintain access to, such facilities as are reasonably necessary for sampling and testing purposes by the Control Officer, or his authorized agent, in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Registration form or records.

2. The owner or operator of any point source as defined in Title 40 CFR, Part 51.1, Paragraph (k), published in the Federal Register on November 25, 1971, shall maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Control Officer to determine whether such source is in compliance with applicable emission limitations or other control measures.

3. The information recorded shall be summarized and reported to the Control Officer on forms furnished by the Control Officer and shall be submitted as part of the registration renewal requirement as provided in Section 8.6 of these Regulations.

4. Information recorded by the owner or operator and copies of the summarizing reports submitted to the Control Officer shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

5. Emission data obtained pursuant to these Regulations from owners or operators of stationary sources to which air quality standards shall apply shall be correlated with applicable emission limitations and other control measures and will be available to the public during normal business hours at the District Health Center, 625 Shadow Lane, Las Vegas, Nevada 89106.

(7.0) SECTION 12. UPSET, BREAKDOWN, OR SCHEDULED MAINTENANCE

Operation of any plant or equipment which causes emissions of air contaminants in excess of limits set by these Regulations is in violation of these Regulations unless:

1. Such emissions result from the shutdown of equipment for scheduled maintenance that has been reported to the Control Officer at least twenty-four (24) hours before any such maintenance, and the scheduled maintenance is performed whenever possible during times specified by

the Control Officer as favorable for atmospheric ventilation; and these emissions are minimized as much as reasonably possible during such scheduled maintenance, particularly by performance during periods of non-operation.

2. Such emissions resulting from an upset or breakdown of equipment is ruled by the Hearing Board to be unavoidable and does not indicate careless, marginal, or unsafe operation.

(51.13) SECTION 13. OPEN BURNING

1. No person shall cause, suffer, allow or permit the burning of any combustible material in any open fire except as provided in this section and then only when such burning has been approved in advance by the Control Officer. Such exceptions are as follows:

    a. When in the judgment of the Control Officer no other method for the disposal of combustible material exists or can reasonably be obtained.

    b. Small fires for recreational, educational, ceremonial, cooking purposes and warmth of human beings, including barbecues and outdoor fireplaces provided they do not create a public nuisance.

    c. Where fire is set by officers of governmental agencies, in performance of their official duties for the purposes of training and instruction of fire-fighting and fire-rescue personnel.

    d. Outside the Las Vegas Valley, when such fire is set on a field used for growing crops in the course of disposing of unused portions of a crop and intermingled weeds resulting from an agriculture operation.

    e. Destruction of highly explosive or dangerous materials for which there is no other practical method of disposal.

    f. Domestic burning of material originating on premises, exclusive of garbage, at a property used exclusively as a private residence or dwelling where there is no collection service available for such material.

2. Notwithstanding subsection 1, any burning so permitted by this section must be controlled so that public nuisance or traffic hazards are not created as a result of the air contaminants being emitted.

3. Nothing in this section shall be construed to prohibit or make unlawful the construction and use of private barbecue pits, grills, or outdoor fireplaces for the preparation of food for comsumption by individuals; nor shall any permit from the Control Officer be required therefor.

4. Open burning shall be prohibited during air pollution episode conditions as defined in Section 6 of the Implementation Plan for the State of Nevada entitled, EMERGENCY EPISODE PLAN.

5. For the purposes of this section, "Las Vegas Valley" is defined as being within the following described boundaries which are referenced to the Mount Diablo Base and Meridian. Beginning at the intersection of the northern boundary of Township 19 South and the western boundary of Range 60 East; thence along a line in a general East by South direction to a point two miles East of the eastern boundary of Range 63 East and two miles South of the northern boundary of Township 19 South; thence along a line in a general South by East direction to a point 1-1/2 miles West of the eastern boundary of Range 63 East and the Southern boundary of Township 22 South; thence generally westerly along the southern boundary of Township 22 South to the western boundary of Range 60 East; thence generally northerly along the western boundary of Range 60 East to the northern boundary of Township 19 South.

(51.9) SECTION 14. INCINERATORS

1. a. No combustible refuse, other than liquid and gases, shall be burned in any incinerator, cremation device, pathological destructor, or any other device used for disposal or recovery of material by burning, other than a multiple chamber incinerator which the Control Officer has approved, and for which a current and valid operating permit is in effect.

   b. Liquid and gases may be burned only in specific by-product incinerators to burn Type 5 and Type 6 wastes, according to the Incinerator Institute of America Standards, which the Control Officer has approved and for which there is a current and valid registration and operating permit.

2. An incinerator may be operated only during the following periods:

   a. April 1 through October 1, 10:00 a.m. to 5:00 p.m., local time.

   b. October 1 through April 1, 11:00 a.m. to 4:00 p.m., local time.

3. Section 14.2 shall not apply to incinerators of the following types:

   a. Incinerators that have a burning capacity equal to or greater than two (2) tons per hour and which are used to burn at least five (5) tons of refuse per day.

   b. Specific by-product incinerators used to burn Type 5 or Type 6 wastes, according to the Incinerator Institute of America Standards.

4. Crematory and pathological incinerators used to burn Type 4 wastes, according to the Incinerator Institute of America Standards, and incinerators operated by law enforcement officials for the destruction of contraband material may be operated during hours other than those prescribed in subsections a. and b. of Section 14.2 only after obtaining prior written permission from the Control Officer.

(50.7) SECTION 15. PROHIBITION OF NUISANCE CONDITIONS

No person shall cause, suffer or allow the discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.

(50.1.2) SECTION 16. EMISSION OF VISIBLE AIR CONTAMINANTS

A person shall not discharge into the atmosphere, from any single source whatsoever, except for an incinerator, any air contaminants for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period, which is:

1. As dark or darker in shade as that designated No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines.

2. Of such opacity as to obscure an observer's view to a degree equal to, or greater than does smoke, as described in Section 16.1.

3. Exceptions:

    a. Smoke from fires permitted in Section 13, herein.

    b. Where the presence of uncombined water is the only reason for the failure of an emission to meet the limitations herein, this section shall not apply.

    c. Smoke discharged in the course of training Air Pollution Control Inspectors to observe visible emissions, if written permission is obtained from the Control Officer specifying the times and dates of such training.

4. Any existing source undergoing substantial alteration after the effective date of these Regulations, other than those which have had compliance schedules approved by the Hearing Board before such date, shall incorporate control devices and methods calculated, within the maximum control capability which is technically practicable at the time that work of the alterations is begun, to eliminate all visible emission from the source involved.

Any new source shall incorporate control devices and methods calculated to produce Ringelmann No. 0 or equivalent opacity except for three (3) minutes in any sixty (60) minutes during which time a visible emission of Ringelmann No. 1 or equivalent opacity shall be permitted.

a. For the purposes of this section, "new source" shall be defined as one where no construction has begun as of the effective date of these Regulations.

b. For the purposes of this section, "alteration" shall be defined as meaning any change to an existing source which will produce or result in an increase of visible emission from that source upon completion of the work involved.

5. No person shall cause, suffer, allow, or permit the discharge into the atmosphere from any incinerator any air contaminants for a period or periods aggregating more than one minute in any hour which is:

   a. As dark or darker in shade as that designated No. 1 on the Ringelmann Chart as published by the United States Bureau of Mines.

   b. Of such opacity as to obscure an observer's view to a degree equal to, or greater than does smoke as described in Section 16.5.a.

6. Emission standards for internal combustion engines shall be the same as those adopted by the Nevada State Commission for Environmental Protection as Article 11 in the State of Nevada Air Quality Regulations. These standards shall be a part of these Regulations by reference.

(51.9) SECTION 17. PARTICULATE MATTER FROM INCINERATORS

1. Incinerators which have a burning capacity of less than two (2) tons per hour and are constructed and permitted prior to the effective date of these Regulations shall not be permitted to discharge into the atmosphere particulate matter in excess of 0.2 grains per standard cubic foot of dry exhaust gas calculated to 12% of carbon dioxide (CO_2) at standard conditions. In measuring the combustion contaminants from incinerators used to dispose of combustible refuse by burning, the carbon dioxide (CO_2) produced by combustion of any liquid or gaseous fuel shall be excluded from the calculation of 12% of carbon dioxide (CO_2).

2. Incinerators which are constructed and permitted after the effective date of these Regulations except those specified in section a. and b. of Section 14.4 shall not be permitted to release or discharge into the atmosphere particulate matter in excess of 0.1 grains per standard cubic foot of dry exhaust gas calculated to 12% of carbon dioxide (CO_2) at standard conditions. In measuring the combustion contaminants

from incinerators used to dispose of combustible refuse by burning, the carbon dioxide (CO_2) produced by the combustion of any liquid or gaseous auxiliary fuel shall be excluded from the calculation to 12 % of carbon dioxide (CO_2).

3. Those incinerators specified in subsections a. and b. of Section 14.3 shall not be permitted to release or discharge particulate matter in excess of the following amounts based upon the dry weight of refuse charged in pounds per hour:

Dry Refuse Charged pounds per hour	Maximum Allowable Rate of Emission of Particulate Matter, pounds per hour
10	0.00407
50	0.0203
100	0.0407
500	0.203
1,000	0.407
5,000	2.03
10,000	4.07
50,000	20.3
100,000	40.7

Maximum allowable emission rates for intermediate charging rates shall be determined by using the equation

$$E = 40.7 \times 10^{-5} C$$

Where E is the maximum allowable rate of emission of particulate matter in pounds per hour and C is the rate of dry refuse charged in pounds per hour.

(50.1.1) SECTION 18. PARTICULATE MATTER FROM PROCESS EQUIPMENT

For purposes of the regulation, the total process weight from all similar process units at a plant or premises shall be used for determining the maximum allowable emission of particulate matter that passes through a stack or stacks. The process weight rate shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

No person may discharge in any one hour, from any source with process weight in the following range, dust or fumes in total quantities in excess of the amount shown in the following table.

Where the process weight per hour falls between figures in the left-hand column the exact weight of permitted discharge may be interpolated.

Process Wt/hr (lbs)	Maximum Weight Disch/hr (lbs)
50	.24
100	.46
150	.66
200	.85
250	1.03
300	1.20
350	1.35
400	1.50
450	1.63
500	1.77
550	1.89
600	2.01
650	2.12
700	2.24
750	2.34
800	2.43
850	2.53
900	2.62
950	2.72
1000	2.80
1100	2.97
1200	3.12
1300	3.26
1400	3.40
1500	3.54
1600	3.66
1700	3.79
1800	3.91
1900	4.03
2000	4.14
2100	4.24
2200	4.34
2300	4.44
2400	4.55
2500	4.64
2600	4.74
2700	4.84
2800	4.92
2900	5.02
3000	5.10
3100	5.18
3200	5.27
3300	5.36
3400	5.44
3500	5.52
3600	5.61
3700	5.69
3800	5.77
3900	5.85
4000	5.93
4100	6.01
4200	6.08
4300	6.15
4400	6.22
4500	6.30
4600	6.37
4700	6.45
4800	6.52
4900	6.60
5000	6.67
5500	7.03
6000	7.37
6500	7.71
7000	8.05
7500	8.39
8000	8.71
8500	9.03
9000	9.36
9500	9.67
10000	10.00
11000	10.63
12000	11.28
13000	11.89
14000	12.50
15000	13.13
16000	13.74
17000	14.36
18000	14.97
19000	15.58
20000	16.19
30000	22.22
40000	28.30
50000	34.30
60000 or more	40.00

(50.1.3) SECTION 19. FUGITIVE DUST

1. Prohibitions

a. Any person engaged in activities involving the dismantling of buildings, public or private construction, mining or processing sand, gravel, or rock (which includes excavating, crushing, sizing, screening, cleaning, and mixing), the operation of machines and equipment, the grading of roads, and trenching operations, shall take all reasonable precautions to abate nuisance caused by dust and to prevent its transmission beyond the boundry lines of the real property on which it originates. Reasonable precautions may include, but are not limited to, cleaning up, sweeping, sprinkling, compacting, enclosure, chemical or asphalt sealing, or such other measures as the Control Officer may specify to accomplish satisfactory results.

b. After the effective date of these amended Regulations, no owner or lessee of any real property located or situated in Clark County, Nevada, or in any incorporated city therein, shall disturb the topsoil or remove the natural cover and allow the same to remain unoccupied, unused, vacant or undeveloped. Nor shall any owner or lessee of any such property upon which the topsoil has been distrubed or the natural cover removed before the effective date of these amended Regulations allow the same to remain unoccupied, unused, vacant, or undeveloped unless reasonable precautions are taken to prevent fugitive dust originating from such property from becoming airborne.

c. No person shall cause or permit the handling or transporting or storage of any material in a manner which allows or may allow controllable particulate matter to become airborne.

d. Sand and abrasive blasting operations will not be permitted unless effective enclosures or other such dust control devices including but not limited to the injection of water have been installed to prevent excessive sand and dust dispersal.

2. Permission to disturb topsoil

a. No owner, lessee, occupant, operator, user or any other person shall disturb the topsoil of any property within Clark County, Nevada, or within any incorporated city therein of one-quarter acre or more prior to the issuance of a permit by the Control Officer and then only if said permit is current and valid.

b. No person shall disturb the topsoil of any property within Clark County, Nevada, or within any incorporated city therein of one-quarter acre or more at the request or under contract of the owner, lessee, occupant, user, or any other person until he has ascertained that the required permit has been issued by the Control Officer.

c. The requirements of permits in this section shall not apply to agricultural operations or landscaping by a person at his place of residence.

3. Permit Applications

Applications for permits will be obtained from the Office of the Air Pollution Control Officer, 625 Shadow Lane, Las Vegas, Nevada 89106, and will be filed with the Control Officer. The permit may be obtained by either the owner, lessee, developer, or prime contractor.

4. Each application will be accompanied by payment of a fee in accordance with the following schedule:

One-fourth (1/4) acre to two and one-half (2-1/2) acres . . .	$10.00
Two and one-half (2-1/2) acres to five (5) acres.	$15.00
Five (5) acres to ten (10) acres.	$20.00
Ten (10) acres to twenty (20) acres	$30.00
Twenty (20) acres to forty (40) acres	$40.00
Forty (40) acres to eighty (80) acres	$50.00
Eighty (80) acres or more	$75.00

5. Conditions of Permit

Said permit is to be granted subject to the right of inspection of such land and determination by the Control Officer of any present or potential sand, dust, or dust particles problem. The permit shall be granted subject, but not limited to the following conditions:

a. The applicant presents and agrees to implement an acceptable method to prevent particulate matter from becoming airborne.

b. The applicant presents and agrees to implement an acceptable method of securing the topsoil when the project is finished.

c. The applicant agrees in writing to take additional precautions as may be reasonably prescribed by the Control Officer, consistent with the provisions of this section of the Regulations.

d. The applicant agrees in writing to suspend all or part of his activities, which are related or which may be contributing to a violation of this Section 19 of the Regulations, if he cannot provide satisfactory control of airborne particles, or upon notification by the Control Officer or his representative.

e. As an additional condition to the issuance of a permit under Section 19.2 of these Regulations, the Control Officer may require the posting of a surety bond in a form acceptable to him. Any such bond must be executed by the applicant for the permit as principal with a corporation authorized to transact surety business in the State of Nevada, and shall be conditioned upon faithful performance of all other conditions of the permit and faithful compliance with the provisions of these Regulations. The amount of each bond required by this section shall be fixed by the Air Pollution Control Officer with reference to the applicant's financial and professional responsibility and the magnitude of his operations, but shall be not less than $500.00 or more than $20,000.00.

f. The permittee's signature or that of his authorized agent on the permit shall constitute agreement by the permittee to accept responsibility for meeting the conditions of the permit.

6. Permits Revoked

The Control Officer or his representative may revoke the permit if he finds that any of its conditions are not being fulfilled. Non-fulfillment of any condition set forth in the permit shall be in violation of this section. Upon revocation of a permit, that work which gives rise to violation to the terms of the permit will cease. The Control Officer shall post notices of revocation conspicuously on the property involved. The notice shall indicate the date and time of revocation and shall state the reasons therefor. The revocation will remain in effect until such time as rescinded by the Control Officer and a new permit is issued upon payment of a fee in accordance with the following schedule; provided that the permittee shall have a right to hearing before the Hearing Board within three (3) days from date of issuance of the revocation:

One fourth (1/4) acre to two and one-half (2-1/2) acres . . .	$ 30.00
Two and one-half (2-1/2) acres to five (5) acres.	$ 45.00
Five (5) acres to ten (10) acres.	$ 60.00
Ten (10) acres to twenty (20) acres	$ 90.00
Twenty (20) acres to forty (40) acres	$120.00
Forty (40) acres to eighty (80) acres	$150.00
Eighty (80) acres or more	$225.00

Any person aggrieved by a decision of the Control Officer pursuant to this section may appeal to the Hearing Board as provided in Section 6 of these Regulations.

7. Processing Permit Applications

Permit applications will be processed by the Control Officer as rapidly as possible. Plat or plot plans will be submitted to the Control Officer for review at the time of application. Permits will be issued from approved applications.

8. Information

The Control Officer shall keep local government planning, engineering, and building agencies, and contractors' associations supplied with a written summary of the dust control and permit requirements of this Section 19.

9. Correction of Condition

If loose sand, dust, or dust particles are found to exist in excess of acceptable limits, as determined by the Control Officer, the Control Officer shall notify the owner, lessee, occupant, operator, or user, of said land that said situation is to be corrected within a specified period of time, dependent upon the scope and extent of the problem. The failure to correct said situation within the specified period of time shall be in violation of this section.

10. Remedial Action

The Control Officer, his designated agent, or any other authorized representative of the Health Department, after due notice shall be further empowered to enter upon any said land where any sand or dust problems exists, and to take such remedial and corrective action as may be deemed appropriate to cope with, and relieve, reduce, or remedy the existent sand and dust situation and condition, when the owner, occupant, operator, or any tenant, lessee, or holder of any possessory interest or right in the involved land, fails to do so.

11. Costs

Any cost incurred in connection with any such remedial or corrective action by the Health Department or any person acting for the Health Department shall be assessed against the owner of the involved property, and failure to pay the full amount of such costs shall result in a lien against said real property, which lien shall remain in full force and effect until any and all such costs shall have been fully paid.

(51.16) SECTION 20. GASOLINE UNLOADING FROM TANK TRUCKS AND TRAILERS INTO STORAGE TANKS

1. A person shall not load, nor permit the loading of gasoline into any stationary storage tank unless such tank is equipped with a permanent submerged fill pipe, the discharge opening of which is entirely submerged when the liquid level is six inches above the bottom of such tank.

2. When loading gasoline into a storage tank from tank truck or trailer, the hose connection to the storage tank fill pipe shall be a tight leak-proof fill connection.

3. For the purpose of these Regulations the term "gasoline" is defined as any petroleum distillate having a Reid vapor pressure of four pounds or greater.

4. The provisions of Section 20.1 shall not apply to any stationary tank with a capacity of less than 250 gallons, nor to the loading of gasoline into any stationary tank installed prior to March 25, 1968 where the fill line between fill connection and such tank is offset, nor to the loading of gasoline into any such tank having a capacity of 2,000 gallons or less which was installed prior to March 25, 1968.

(51.16) SECTION 21. STORAGE OF PETROLEUM PRODUCTS

A person shall not place, store, nor hold in any stationary tank, reservoir or other container of more than 40,000 gallons capacity any petroleum distillate having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir, or other container is a pressure tank maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss into the atmosphere, or unless it is designed and equipped with one of the following vapor loss control devices, properly installed, and in good working order and operation:

1. A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, to close the space between the roof edge and the tank wall. The control equipment provided for herein shall not be used if the gasoline or petroleum distillate has a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

2. A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged, and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere, and with all tank gauging and sampling devices gas-tight, except when gauging or sampling is taking place.

3. Other equipment of equal efficiency, provided such equipment has first been submitted to and approved by the Control Officer.

(2.0) SECTION 22. INJUNCTIVE RELIEF

In addition to any remedy of law hereunder, the Control Officer may apply to a court of competent jurisdiction for other equitable and injunctive relief to enforce compliance with, or to restrain violations of any provision of these Regulations, or of any regulation or rule made and adopted pursuant thereto.

(2.0) SECTION 23. INTERFERENCE WITH CONTROL OFFICER

It is unlawful for any person:

1. To hinder, obstruct, delay, resist, interfere with, or attempt to interfere with, the Control Officer, or any individual to whom authority has been duly delegated for the performance of any duty by these Regulations.

2. To refuse to permit the Control Officer or any individual to whom such authority has been delegated, to administer or perform any function provided for herein, by refusing him at any reasonable time entrance to property or premises, except a private residence, containing equipment or open fire, discharging, or suspected and believed to be discharging, smoke, dust, gas, vapor, or odor into the open air.

3. To fail to disclose information when requested under oath or otherwise, to the Control Officer or any individual to whom such authority has been delegated.

(15.0) SECTION 24. PERSONS LIABLE FOR PENALTIES - PUNISHMENT: DEFENSE

1. All persons owning, operating, or in charge of control of any equipment or property who shall cause, permit, or participate in, any violation of these Regulations, shall be individually and collectively liable to any penalty or punishment imposed by and under these Regulations.

2. It shall be a defense to any prosecution instituted against any employee of a person owning, operating, or conducting any business, industry, or operation that the acts complained of were done and performed pursuant to the orders and directions of such owner or operator, or his agent or representative, conducting such business, industry or operation.

(3.0) SECTION 25. ADMINISTRATIVE FINES

1. Any person who violates any provision of these Regulations except Section 16.6 is guilty of a civil offense and shall pay an adminis-

trative fine levied by the Hearing Board of not more than $5,000. Each day of violation constitutes a separate offense. The following fines apply to lesser violations:

a. First Violation	
(1) Section 13	$ 25.00
(2) Section 16 (for oil-fired boilers)	$ 25.00
(3) Section 16 (for incinerators)	$ 50.00
(4) Section 19 (fugitive dust)	$ 50.00
b. Second Violation	
(1) Section 13	$ 50.00
(2) Section 16 (for oil-fired boilers)	$ 50.00
(3) Section 16 (for incinerators)	$100.00
(4) Section 19 (fugitive dust)	$100.00
c. Third Violation	
(1) Section 13	$100.00
(2) Section 16 (for oil-fired boilers)	$100.00
(3) Section 16 (for incinerators)	$200.00
(4) Section 19 (fugitive dust)	$200.00

d. In the event of four (4) or more violations in one year's time or less, the fine may be that which is deemed appropriate by the Hearing Board.

2. Any person aggrieved by an order issued pursuant to this section is entitled to review as provided in Chapter 445.591 or NRS.

3. Nothing contained in Section 25 of these Regulations shall be construed as limiting the authority of the Hearing Board to take other appropriate remedies as are provided in these Regulations.

4. Any person who violates Section 16.6 of these Regulations is guilty of a misdemeanor.

(51.5) SECTION 26. FUEL BURNING EQUIPMENT

1. General Provisions

a. This regulation applies to installation in which fuel is burned for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with other materials, Fuels include those such as coke, coal, lignite, coke breeze, fuel oil, and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

b. The heat content of coal shall be determined according to ASTM method D-271-64 Laboratory Sampling and Analysis of Coal or Coke or ASTM method D-2015-62T Gross calorific value of solid fuel by the Adiabatic Bomb Calorimeter, which publications are made a part of this section by reference.

c. For purposes of this regulation the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

d. The amount of particulate matter emitted shall be measured according to the American Society of Mechanical Engineers' Power Test Codes - PTC-27, dated 1957 entitled, "Determining Dust Concentrations in a Gas Stream," which publication is made a part of this section by reference. The Control Officer may modify this testing procedure or specify the use of more current procedures in accordance with good professional practice.

2. Emission Limitations

a. No person shall cause or permit the emission of particulate matter from any fuel-burning equipment in excess of the quantity set forth in the following table:

Heat input, millions of British thermal units per hour	Maximum allowable rate of emission of particulate matter, pounds per million British thermal units of heat input
10	0.600
50	0.412
100	0.352
500	0.242
1,000	0.207
4,000	0.150
8,000	0.102
10,000	0.0904
15,000	0.0717
20,000	0.0607
40,000	0.0409
50,000	0.0358
100,000	0.0243

b. Maximum allowable emission rates of particulate matter for heat input greater than 10 million but less than 4000 million BTU per hour shall be determined by using the equation

$Y = 1.02\ X^{-0.231}$. Maximum allowable emission rates of particulate matter for heat inputs equal to or greater than 4000 million BTU per hour shall be determined by using the equation

$Y = 17.0\ X^{-0.568}$ where Y = allowable rate of emission in pounds per million BTU and X = maximum heat input in millions of BTU per hour.

c. No person shall cause or permit the emission of sulfur dioxide from any fuel-burning equipment in excess of the quantity set forth in the following table:

Heat input, millions of British thermal units per hour	Maximum allowable rate of emission of sulfur dioxide, pounds per hour
1,000	150
5,000	750
10,000	1,500
15,000	2,250
20,000	3,000
25,000	3,750
30,000	4,500
35,000	5,250
40,000	6,000
45,000	6,750
50,000	7,500

d. Maximum allowable emission rate of sulfur dioxide shall be determined by using the equation $Z = 0.15 X$ where Z = allowable rate of sulfur dioxide emission in pounds per hour and X = maximum heat input in millions of BTU per hour.

(2.0) SECTION 27. PROVISIONS OF REGULATIONS SEVERABLE

If any provision of these Regulations or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of these Regulations which can be given effect without the invalid provision of application, and to this end the provisions of these Regulations are declared to be severable.

(2.0) SECTION 28. CIRCUMVENTION

A person shall not build, erect, install, or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, reduces or conceals an emission which would otherwise constitute a violation of these Regulations. This section will not apply to cases in which the only violation involved in the Section 40.140 of the Nevada Revised Statutes or of Section 15 of these Regulations.

(4.0) SECTION 29. ODORS IN THE AMBIENT AIR

An odor occurrence shall be deemed a violation when a complaint is received and substantiated within two hours by the Control Officer. The Control Officer shall deem the odor occurrence a violation if he is able to make two odor measurements within a period of one hour, these measurements being separated by at least 15 minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted with two or more volumes of odor-free air.

(51.11) SECTION 30. RESTRICTION OF EMISSION OF SULFUR FROM PRIMARY NON-FERROUS SMELTERS

Persons shall not cause, suffer, allow, or permit the emission of sulfur from any stack or chimney into the outdoor atmosphere in excess of the allowable emission shown in the table below.

The maximum allowable weight discharged per hour will be determined by use of the following equations:

Copper smelters	$Y = 0.1X$
Zinc smelters	$Y = 0.282X^{0.85}$
Lead smelters	$Y = 0.49X^{0.77}$

Y = Allowable sulfur emission, lb./hr.
X = Total feed sulfur, lb./hr.

For the purposes hereof, total feed sulfur shall be calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere. When furnaces, sinter machines, sinter boxes, roasters, converters or other similar devices for converting ores, concentrates, residues or slag to the metal or the oxide of the metal either wholly or in part, are released to the atmosphere the combined sulfur input of all units shall be used to determine the allowable emission to the atmosphere.

TABLE

Total feed sulfur	Allowable Sulfur Emissions - Lb./Hr.		
lb/hr	Cu.	Zn.	Pb.
1,000	100	100	100
5,000	500	394	348
10,000	1,000	704	593
20,000	2,000	1,270	1,000
40,000	4,000	2,310	1,000
60,000	6,000	3,210	1,000
80,000	8,000	4,120	1,000
100,000	10,000	5,000	1,000

(50.2) SECTION 31. SULFUR CONTENTS OF COMMERCIAL FUEL OIL

1. It is unlawful for any person to store, offer for sale, burn, or cause to be burned, within Clark County at any time, any commercial fuel oil having a sulfur content in excess of 1.0 percent by weight.

2. The provisions of this section shall not apply to the use of liquid fuel whenever the supply of gaseous fuel is not physically available to the user due to accident, act of God, act of war, or act of public enemy.

(50.4) SECTION 32. EVAPORATION AND LEAKAGE

Materials such as, but not limited to, solvent, or other volatile compounds such as paints, acids, alkalies, pesticides, fertilizer, and manure shall be processed, stored, used and transported in such a manner and by such means that they will not evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution; and where control methods are available to reduce effectively the contribution to air pollution from evaporation, leakage, or discharge as determined by the Control Officer, the installation and use of such control methods, devices or equipment shall be mandatory.

(51.21) SECTION 33. REDUCTION OF ANIMAL MATTER

1. The operation of any article, machine, equipment or other contrivance for the reduction of animal matter is prohibited unless all gases, vapors and gas-entrained effluents are:

    a. Incinerated at temperatures of not less than 1400° F. for not less than 0.3 seconds; or

    b. Processed in a manner determined by the Control Officer to be equally efficient.

2. This regulation does not apply to any article, machine, equipment or other contrivance used exclusively for the processing of food for human consumption.

(51.16) SECTION 34. GASOLINE LOADING INTO TANK TRUCKS AND TRAILERS

1. A person shall not load gasoline into any tank truck or trailer from any loading facility unless such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order and in operation.

2. When loading is effected through the hatches of a tank truck or trailer with a loading arm equipped with a vapor collecting adaptor, a pneumatic, hydraulic or other machanical means shall be provided to force a vapor-tight seal between the adaptor and the hatch. A means shall be provided to prevent liquid gasoline drainage from the loading device when it is removed from the hatch of any tank truck or trailer, or to accomplish complete drainage before such removal.

3. When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

4. The vapor disposal portion of the system shall consist of one of the following:

    a. A vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the hydrocarbon vapors and gases entering such disposal system.

    b. A variable vapor space tank, compressor, and fuel gas system of sufficient capacity to receive all hydrocarbon vapors and gases displaced from the tank trucks and trailers being loaded.

    c. Other equipment of at least 90 percent efficiency, provided such equipment is submitted to and approved by the Air Pollution Control Officer.

5. This section shall not apply to the loading of gasoline into tank trucks and trailers from any loading facility from which not more than 20,000 gallons of gasoline are loaded in any one day.

6. For the purpose of this section, any petroleum distillate having a Reid vapor pressure of four pounds or greater shall be included by the term "gasoline."

(6.0) SECTION 35. COMPLIANCE SCHEDULES

1. Any existing source not in compliance with emission limitations hereinafter adopted, or which is not operating under a compliance schedule approved by the Hearing Board shall submit a compliance schedule to the Control Officer for review no later than 90 days after adoption of such emission limitations.

2. The Hearing Board shall hold a public hearing on each compliance schedule within 60 days after submission of such schedule to the Control Officer.

3. The Hearing Board may approve, disapprove, alter, or change all or any part of a compliance schedule, or may impose its own schedule upon the source involved.

4. Compliance schedules shall contain as a minimum:

   a. Appropriate increments of progress.

   b. Final date of compliance with the appropriate emission limitations.

(4.0) SECTION 36. AMBIENT AIR QUALITY STANDARDS

1. The following concentrations of air contaminants shall not be exceeded at any single point in the ambient air:

   a. Sulfur oxides as sulfur dioxide:

Annual arithmetic mean	60 ug/M^3 (0.02 ppm)
Maximum 24 hr. concentration	260 ug/M^3 (0.1 ppm)
Maximum 3 hr. concentration	1300 ug/M^3 (0.5 ppm)

   b. Suspended particulate matter:

Annual geometric mean	60 ug/M^3
Maximum 24 hr. concentration	150 ug/M^3

   c. Carbon monoxide:

Maximum 3 hr. concentration	10 mg/M^3 (9.0 ppm)
Maximum 1 hr. concentration	40 mg/M^3 (35.0 ppm)

d. Photochemical oxidant:

Maximum 1 hr. concentration 160 ug/M^3 (0.08 ppm)

e. Non-methane hydrocarbons:

Maximum 1 hr. concentration 160 ug/M^3 (0.24 ppm)

f. Nitrogen dioxide:

Annual arithmetic mean 100 ug/M^3 (0.05 ppm)

2. ug/M^3 means micrograms of air contaminant per cubic meter of air.

   mg/M^3 means milligrams of air contaminant per cubic meter of air.

   ppm means parts of air contaminant by volume per million parts of air by volume.

3. The methods of measurement shall be those prescribed in Appendices A through F, inclusive, of § 410 of Chapter IV, Title 42, Code of Federal Regulation, published in the Federal Register on April 30, 1971. These may change from time to time.

4. Adoption of these Ambient Air Quality Standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of Clark County.

FEDERALLY PROMULGATED REGULATIONS

(14.0) 52.1473 Public Availability of Emission Data

For State Regulations and Washoe County, not needed for Clark County

(b) Regulation for public availability of emission data.

1. Any person who cannot obtain emission data from the Agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any source subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such data. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emission from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source in in compliance with applicable emission limitations - or other control measures that are part of the applicable plan.

2. Commencing after the initial notification by the Regional Administrator pursuant to paragraph (b) (1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31.

(50.2) 52.1475 Control strategy and regulations: Sulfur oxides.

(c) Regulation for control of fugitive sulfur oxides emissions (Nevada Intrastate Region).

(1) The owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Region shall utilize best engineering techniques for reducing escape of pollutants to the atmosphere and to capture sulfur oxides emissions and vent them through a stack or stacks. Such techniques shall include, but not be limited to:

(i) Installing and operating hoods on all active matte tapholes, matte launders, slag skim bays, slag handling operations, and holding ladles on each reverberatory furnace;

(ii) Installing tight fitting hoods on each active converter and operating such hoods except during pouring and charging operations;

(iii) Maintaining all ducts, flues, and stacks in a leak-free condition;

(iv) Maintaining all reverberatory furnaces and converters under normal operating conditions in such a fashion that out-leakage of gases will be prevented to the maximum extent possible;

(v) Wherever feasible, ducting emissions through the tallest stack or stacks serving the facility; and

(vi) Wherever feasible, passing the effluents from all hooding through the tallest stack or stacks serving the facility.

(2) (i) If the owner or operator of the smelter subject to this paragraph is not in compliance with the provisions of subparagraph (c) (1) of the section the following compliance schedule shall apply:

(a) 30 days after the effective date of this regulation. Let contracts or issue purchase orders for hoods and flues for control of fugitive sulfur oxides emissions or provide evidence that such contracts have been let.

(b) July 1, 1975. Initiate on-site construction and/or installation of emission control equipment.

(c) July 1, 1976. Complete on-site construction and/or installation of emission control equipment.

(d) January 1, 1977. Achieve final compliance with requirements of subparagraph (c) (1) of this section.

(ii) The owner or operator of the smelter subject to the requirements of this subparagraph shall certify to the Administrator within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iii) If the source subject to this paragraph is presently in compliance with the requirements of subparagraph (c) (1) of this section, the owner or operator of such source may certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. If such certification is acceptable to the Administrator, the applicable requirements of this subparagraph shall not apply to the certifying source. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(3) The owner or operator of the smelter subject to this paragraph may submit to the Administrator, no later than thirty (30) days after the effective date of this paragraph, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after January 1, 1977. If approved by the Administrator, such schedule shall satisfy the compliance schedule requirements of this subparagraph for the affected source.

(d) Regulation for control of sulfur dioxide emissions (Nevada Intrastate Region).

(1) The owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Region shall comply with all the requirements of this paragraph, except as provided in paragraph (e) of this section.

(2) (i) After July 31, 1977, the owner or operator of the smelter subject to this paragraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of 10,150 pounds per hour (4,603 kg/hr.) maximum 6-hour average as determined by the method specified in subparagraph (d) (4) of this section.

(ii) The limitation specified in subparagraph (d) (2) (i) of this section shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment, but not including uncaptured fugitive emissions and those emissions due solely to the use of fuel for space heating or steam generation.

(3) (i) The owner or operator of the smelter to which this paragraph is applicable shall, no later than 30 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with subparagraph (d) (2) of this section as expeditiously as practicable but not later than July 31, 1977.

(ii) The compliance schedule submitted to the Administrator pursuant to subparagraph (d) (3) (i) of this section shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the following:

(a) Submittal of final control plan to the Administrator for meeting the requirements of subparagraph (d) (2) of this section.

(b) Letting of necessary contracts or progress changes, or issuance of orders for the purchase of component parts, to accomplish emission control or process modification;

(c) Initiation of on-site construction or installation of emission control equipment or process modification;

(d) Completion of on-site construction or installation of emission control equipment or process modification;

(e) Full compliance with the requirements of subparagraph (d) (2) of this section.

(iii) The owner or operator of the smelter subject to the requirements of this subparagraph shall certify to the Administrator within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iv) Notice must be given to the Administrator at least 10 days prior to conducting a performance test to afford him the opportunity to have an observer present.

(v) If the source subject to this paragraph is currently in compliance with the requirement of subparagraph (d) (2) of this section, the owner or operator of such source may certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. If such certification is acceptable to the Administrator, the applicable requirements of this subparagraph (d) (3) of this section shall not apply to the certifying source. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(4) (i) The owner or operator of the smelter to which this paragraph is applicable shall install, calibrate, maintain, and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which emits 5 percent or more of the total potential (without emission controls) hourly sulfur oxides emissions from the source. For the purpose of this paragraph, "continuous monitoring" means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack in each 15-minute period.

(ii) Within nine months after the effective date of this paragraph, and at other such times in the future as the Administrator may specify, the sulfur dioxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part.

(iii) Within nine months after the effective date of this paragraph, and at other such times in the future as the Administrator may specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part.

(iv) The Administrator shall be notified at least ten (10) days in advance of the start of the field test period required in Appendices D and E to this Part to afford the Administrator the opportunity to have an observer present.

(v) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.647 m^2 (50 $ft.^2$) or at a point no closer to the wall than 0.914 m (3 ft.) if the cross sectional area is 4.647 m^2 (50 $ft.^2$) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(vi) The measurement system(s) installed and used pursuant to this section shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(vii) Six-hour average sulfur dioxide emission rates shall be calculated in accordance with subparagraph (d) (5) of this section, and recorded daily.

(viii) The owner or operator of the smelter subject to this paragraph shall maintain a record of all measurements required by this paragraph. Measurement results shall be expressed as pounds of sulfur dioxide emitted per six hour period. A 6-hour average value calculated pursuant to subparagraph (d) (5) (i) of this section shall be reported as of each hour for the preceding 6-hour period. Results shall be summarized monthly and shall be submitted to the Administrator within fifteen (15) days after the end of each month. A record of such measurements shall be retained for at least two years following the date of such measurements.

(ix) The continuous monitoring and recordkeeping requirements of this subparagraph shall become applicable nine months after the effective date of this regulation.

(5) (i) Compliance with the requirements of subparagraph (d) (2) of this section shall be determined using the continuous measurement system(s) installed, calibrated, maintained and operated in accordance with the requirements of subparagraph (d) (4) of this section. For all stacks equipped with the measurement system(s) required by subparagraph (d) (4) of this section, a 6-hour average sulfur dioxide emission rate shall be calculated as of

the end of each clock hour, for the preceding six hours, in the following manner:

(a) Divide each 6-hour period into 24 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for each affected stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentration and stack gas flow rate measurements (from the respective affected facilities) recorded during the 15-minute period. In the later case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(c) Calculate the arithmetic average (lbs SO_2/hr) from all 24 emission rate measurements in each 6-hour period for each stack.

(d) Total the average sulfur dioxide emission rates for all affected stacks.

(ii) Notwithstanding the requirements of subparagraph (5) (i) of this paragraph, compliance with the requirements of subparagraph (d) (2) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For all stacks equipped with the measurement system(s) required by subparagraph (d) (4) of this section, a 6-hour average sulfur dioxide emission rate (lbs SO_2/hr) shall be determined as follows:

(a) The test of each stack emission rate shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which they will be operated and under such other conditions as the Administrator may specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be conducted during three 6-hour periods for each stack. Each 6-hour period will consist of three consecutive 2-hour periods. Measurements of emissions from all stacks on the smelter premises need not be conducted simultaneously. All tests must be completed within a 72-hour period.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each two hour test shall be 40 ft^2 corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and by traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 69 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60 of this chapter except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each two hour test period, the sulfur dioxide emission rate for each stack shall be determined by multiplying the stack gas volumetric flow rate (ft^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (lb/ft^3 at standard conditions, dry basis). The emission rate in lbs/hr-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests.

(h) The sum total of sulfur dioxide emissions from the smelter premises in lbs/hr is determined by adding together the emission rates (lbs/hr) from all stacks equipped with the measurement system(s) required by subparagraph (d) (4) of this section.

(e) Alternate regulation for control of sulfur dioxide emissions (Nevada Intrastate Region).

(1) The owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Air Quality Control Region may apply to the Administrator for approval to meet the requirements of this paragraph. Upon such approval, granted pursuant to subparagraph (e) (3) of this section, the requirements of paragraph (d) shall not be applicable during the period of such approval, and all requirements of this paragraph shall apply.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Act, Part 51 or § 52.01 of this chapter.

(i) The term "supplementary control system" means any system which limits the amount of pollutant emissions during periods when meteorological conditions conducive to ground-level concentrations in excess of national standards exist or are anticipated.

(ii) The term "ambient air quality violation" means any single ambient concentration of sulfur dioxide that exceeds any National Ambient Air Quality Standard for sulfur dioxide at any point in a designated liability area, as specified in subparagraph (c) (8) of this section.

(iii) The term "isolated source" means a source that will assume legal responsibility for all violations of the applicable national standards in its designated liability area, as specified in subparagraph (e) (8) of this section.

(iv) The term "designated liability area" means the geographic area within which emissions from a source may significantly affect the ambient air quality.

(3) (i) The application for permission to comply with this paragraph shall be submitted to the Administrator no later than sixty (60) days following the effective date of this paragraph and shall include the following:

(a) A short description of the type and location of the smelter; the process, equipment, raw materials and fuels used; the stacks employed; and emissions to the atmosphere from various points on the smelter premises.

(b) A general description and the location of other sources of air pollution and of the uses of land, and the topography in the vicinity of the smelter.

(c) A summary of all ambient air quality data in the vicinity of the smelter collected by or under contract to smelter.

(d) A description of the methods of constant emission reduction that are or will be applied and the degree of emission reduction achieved or expected due to their application.

(e) A description of the investigations that the owner or operator has made, and the results thereof, as to the availability of constant emission reduction methods that would meet the requirements of paragraph (d) (2) of this section and a discussion of the reasons why any potentially available methods cannot reasonably be used.

(f) A specific description of the research, investigations, or demonstrations that the owner or operator will conduct or support for the purpose of developing constant emission reduction technology applicable to the smelter. Such description shall include the resources to be committed, qualifications of the participants, a description of the facilities to be utilized and milestone dates.

(g) A detailed description of all other measures the owner or operator will apply, in addition to those described in (d), to provide for attainment and maintenance of the air quality standards. These measures include but need not be limited to supplementary control systems, tall stacks and other dispersion techniques.

Each measure to be applied shall be described in sufficient detail to allow the Administrator to determine its effectiveness in reducing ambient concentrations.

(h) A written commitment by the owner or operator of the source subject to this paragraph agreeing to assume liability for all violations of National Ambient Air Quality Standards within the designated liability area.

(i) Such other pertinent information as the Administrator may require.

(ii) Upon receipt of the information specified in subparagraph (e) (3) (i) of this section, and after making a determination of its adequacy, the Administrator promptly shall, after thirty (30) days notice, conduct a public hearing on the application submitted by the owner or operator. The Administrator shall make available to the public the information contained in the application. Within thirty (30) days after the hearing, the Administrator shall notify the owner or operator of the smelter and other interested parties of his decision as to whether to grant or deny the application. If he denies the application, he will set forth his reasons. If he approves the application the owner or operator shall comply with all provisions of paragraph (e) of this section and need not comply with provisions of paragraph (d) of this section except as provided in subparagraph (e) (16) of this section.

(iii) Approval of the application to abide by the provisions of paragraph (e) will be granted if it can be satisfactorily demonstrated to the Administrator that control measures in addition to the available constant emission controls are required and if the specific measures submitted pursuant to subparagraph (e) (3) (i) (g) of this section will provide for the attainment and maintenance of the National Ambient Air Quality Standards.

(4) (i) The owner or operator of the smelter subject to this paragraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of:

(a) 2,600 parts per million-maximum 6-hour average, from any single absorption sulfuric acid producing facility designed for the removal of sulfur dioxide, as determined by the method specified in subparagraph (e) (6) (i) or (iii) of this section, and

(b) 29,000 pounds per hour (13,154 kg/hr) maximum 6-hour average, as determined by the method specified in subparagraph (e) (6) (ii) or (iv) of this section. Such limitation shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment but not including uncaptured fugitive emissions and those emissions due solely to use of fuel for space heating or steam generation.

(ii) All emissions from the converters, with the exception of the uncaptured fugitive emissions, shall be processed through a facility for the removal of sulfur dioxide which meets the requirements of subparagraph (e) (4) (i) (a) of this section.

(5) (i) The owner or operator of the smelter to which this paragraph is applicable shall install, calibrate, maintain and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which emits 5 percent or more of the total potential (without emission controls) hourly sulfur oxides emissions from the source. For the purpose of this paragraph, "continuous monitoring" means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack in each 15-minute period.

(ii) No later than the date specified in subparagraph (e) (14) (i) (b) (5) of this section at at such other times in the future as the Administrator may reasonably specify, the sulfur dioxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part.

(iii) No later than the date specified in subparagraph (e) (14) (i) (b) (5) of this section and at such other times in the future as the Administrator may reasonably specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part.

(iv) The Administrator shall be notified at least 10 days in advance of the start of the field test period required in Appendices D and E to this Part to afford the Administrator the opportunity to have an observer present.

(v) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.647 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft) if the cross sectional area is 4.647 m^2 (50 ft^2) or more. The monitor sample point shall be an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(vi) The measurement system(s) installed and used pursuant to this section shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(vii) Six-hour average sulfur dioxide concentration and emission rates shall be calculated in accordance with subparagraph (6) of this paragraph, and recorded daily.

(viii) The owner or operator of the smelter subject to this paragraph shall maintain a record of all measurements required by this subparagraph. Measurement results shall be expressed in the units prescribed by the emission limitations in subparagraph (e) (4) of this section. Six-hour average values calculated pursuant to subparagraph (e) (6) (i) and (ii) of this section shall be reported as of each hour for the preceding six hours. The results shall be summarized monthly and shall be submitted to the Administrator within fifteen (15) days of the end of each month. A record of such measurements shall be retained for at least two years following the date of such measurements.

(6) (i) Compliance with the requirements of subparagraph (e) (4) (i) (a) of this section shall be determined using the continuous measurements system(s) installed, calibrated, maintained and operated in accordance with the requirements of subparagraph (e) (5) of this section. For the stack(s) equipped with the measurement system(s) required by subparagraph (e) (5) of this section and serving the sulfur dioxide removal device a 6-hour average sulfur dioxide concentration shall be calculated as of the end of each clock hour for the preceding six hours, in the following manner:

(a) Divide each 6-hour period into twenty-four 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration measurement for each 15-minute period. These measurements may be obtained either by continuous integration of all measurements (from the respective affected facility) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similary spaced within each 15-minute period.

(c) Calculate the arithmetic average of all 24 concentration measurements in each 6-hour period.

(ii) Compliance with the requirements of subparagraph (e) (4) (i) (b) of this section shall be determined using the continuous measurement system(s) installed, calibrated, maintained and operated in accordance with the requirements of subparagraph (e) (5) of this section. For all stacks equipped with the measurement system(s) required by subparagraph (e) (5) of this section, a 6-hour average sulfur dioxide emission rate shall be calculated as of the end of each clock hour for the proceding six hours, in the following manner:

(a) Divide each 6-hour period into twenty-four 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for each affected stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentrations and stack gas flow rate measurements (from the respective affected facilities) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration and stack gas flow rate readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(c) Calculate the arithmetic average (lbs SO_2/hr) of all 24 emission rate measurements in each 6-hour period for each stack.

(d) Total the average sulfur dioxide emission rates for all affected stacks.

(iii) Notwithstanding the requirements of subparagraph (e) (6) (i) of this section, compliance with the requirements of subparagraph (e) (4) (i) (a) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For each stack serving any process designed for the removal of sulfur dioxide a 6-hour average sulfur dioxide concentration shall be determined as follows:

(a) The test of each stack emission concentration shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which such will be operated and under such other conditions as the Administrator may specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentration shall be conducted during three 6-hour periods of each stack. Each 6-hour period will consist of three consecutive 2-hour periods. Measurements of emissions from all stacks on the smelter premises need not be conducted simultaneously. All tests must be completed within a 72-hour period.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each two hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The velocity of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content can be considered to be zero.

(f) The gas sample shall be extracted at a rate proportional to gas velocity at the sampling point.

(g) The sulfur dioxide concentration in parts per million-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests.

(iv) Notwithstanding the requirements of subparagraph (e) (6) (ii) of this section, compliance with the requirements of subparagraph (e) (4) (i) (b) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For all stacks equipped with the measurement system(s) required by subparagraph (e) (5) of this section, a 6-hour average sulfur dioxide emission rate (lbs SO_2/hr) shall be determined as follows:

(a) The test of each stack emission rate shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which they will be operated and under such other conditions as the Administrator shall specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical, and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be conducted during three consecutive 2-hour periods for each stack. Measurements need not necessarily be conducted simultaneously of emissions from all stacks on the smelter premises.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each 2-hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and by traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60 of this chapter except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each 2-hour test period, the sulfur dioxide emission rate for each stack shall be determined by multiplying the stack gas volumetric flow rate (ft^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (lb/ft^3 at standard conditions, dry basis). The emission rate in lbs/hr-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests.

(h) The sum total of sulfur dioxide emissions from the smelter premises in lbs/hr is determined by adding together the emission rates (lbs/hr) from all stacks equipped with the measurement system(s) required by subparagraph (5) of this paragraph.

(7) The owner or operator of the smelter subject to this paragraph, in addition to meeting the emission limitation requirements of subparagraph (e) (4) of this section, shall employ supplementary control systems and/or such additional control measures as may be necessary to assure the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide.

(i) Such measures will be limited to those specified in the application submitted pursuant to subparagraph (e) (3) (i) (g) of this section.

(ii) Sulfur oxides emissions shall be curtailed whenever the potential for violating any National Ambient Air Quality Standard for sulfur dioxide is indicated at any point in a designated liability area by either of the following:

(a) Air quality measurement.

(b) Air quality prediction.

(8) (i) For the purpose of this paragraph the designated liability area shall be a circle with a radius of fifteen

(15) statute miles (24 km) with the center point of such circle coinciding with the tallest stack serving the affected facility. The owner or operator of the smelter subject to this paragraph may submit a detailed report which justifies redefining the designated liability area specified by the Administrator. Such a justification shall be submitted with the application submitted pursuant to subparagraph (e) (3) (i) of this section and shall describe and delineate the requested designated liability area and discuss in detail the method used and the factors taken into account in the development of such area. Upon receipt and evaluation of such report, and after the public hearing described in subparagraph (e) (3) (ii) of this section, the Administrator shall issue his final determination.

(ii) If new information becomes available which demonstrates that the designated liability area should be redefined, the Administrator shall consider such and if appropriate, after notice and comment, redefine the designated liability area.

(9) (i) The owner or operator of the smelter subject to the paragraph shall submit with the application submitted pursuant to subparagraph (e) (3) (i) of this section, a detailed plan for the establishment of a supplementary control system and/or such other measures as may be proposed. Such plan shall describe all air quality and emission monitoring and meteorological equipment to be used, including instruments installed pursuant to subparagraph (5) of this paragraph for continuously monitoring and recording sulfur dioxide emission rates to be achieved in association with various meteorological and air quality situations, and the general plan of investigations to be followed in developing the system and the operational manual.

(ii) Such plan shall include detailed specifications of any modifications to existing equipment including new stacks, stack extensions, stack heating systems or any process changes to be applied.

(iii) The monitoring described in the detailed plan submitted in accordance with this subparagraph and the appropriate recordkeeping requirements of subparagraph (e) (12) of this section shall commence and become applicable as of the date specified in subparagraph (e) (14) (i) (b) (5) of this section.

(10) The owner or operator of the smelter subject to this paragraph shall submit to the Administrator a comprehensive report of a study which demonstrates the capability of the supplementary control system, in conjunction with any other control measures, to reduce air pollution levels. The report shall describe a study conducted during a period of at least 120 days during which the supplementary control system was being developed and operated and shall be submitted no later than the date specified in subparagraph (e) (14) (i) (b) (6) of this section. The report shall:

(i) Describe the emission monitoring system and the air quality monitoring network.

(ii) Describe the meteorological sensing network and the meteorological prediction program.

(iii) Identify the frequency, characteristics, times of occurrence and durations of meteorological conditions associated with high ground-level concentrations.

(iv) Describe the methodology (e.g., dispersion modeling and measured air quality data) by which the source determines the degree of control needed under each meteorological situation.

(v) Describe the method chosen to vary the emission rate, the basis for the choice, and the time required to effect a sufficient reduction in the emission rate to avoid violations of National Ambient Air Quality Standards.

(vi) Contain an estimate of the frequency that emission rate reduction is required to prevent National Ambient Air Quality Standards from being exceeded and the basis for the estimate.

(vii) Include data and results of objective reliability tests. "Reliability," as the term is applied here, refers to the ability of the supplementary control system to protect against violations of the National Ambient Air Quality Standards.

(viii) Demonstrate that the supplementary control system and other measures expected to be employed after the date specified in subparagraph (e) (14) (i) (b) (6) of this section will result in attainment and maintenance of National Ambient Air Quality Standards.

(11) The owner or operator of the smelter subject to this paragraph shall submit to the Administrator an operational manual for the supplementary control system. Such manual shall be submitted no later than the date specified in subparagraph (e) (14) (i) (b) (6) of this section and is subject to the approval of the Administrator as satisfying the specific requirements of this subparagraph. Such approval shall not relieve the owner or operator of the smelter subject to this paragraph from its assumed liability for violations of any National Ambient Air Quality Standards for sulfur oxides in the designated liability area. Prior to making his final decision, the Administrator shall, after reasonable notice, provide an opportunity of not less than forty-five (45) days for public inspection and comment upon the manual. Such manual shall:

(i) Specify the number, type, and location of ambient air quality monitors, in-stack monitors and meteorological instruments to be used.

(ii) Describe techniques, methods, and criteria to be used to anticipate the onset of meteorological situations associated with ground-level concentrations in excess of National Ambient Air Quality Standards and to systematically evaluate and, as needed, improve the reliability of the supplementary control system.

(iii) Describe the criteria and procedures that will be used to determine the degree of emission control needed for each class of meteorological and air quality situations.

(iv) Specify maximum emission rates which may prevail during all probable meteorological and air quality situations, which rates shall be such that National Ambient Air Quality Standards will not be exceeded in the designated liability area. Such emission rates shall be determined by in-stack monitors. Data from such monitors shall be the basis for determining whether the emission rate provisions of the approved operational manual are adhered to.

(v) Describe specific actions that will be taken to curtail emissions when various meteorological conditions described in paragraph (e) (11) (ii) of this section exist or are predicted and/or when specified air quality levels occur.

(vi) Identify the company personnel responsible for initiating and supervising the actions that will be taken to curtail emissions. Such personnel must be responsible, knowledgeable and able to apprise the Administrator of the status of the supplementary control system at any time the source is operating.

(vii) Be modified only if approval by the Administrator is first obtained.

(12) The owner or operator of the smelter subject to this paragraph shall:

(i) Maintain, in a usable manner, records of all measurements and reports prepared as part of the supplementary control system described in the approved operational manual. Such records shall be retained for at least two years.

(ii) Submit, on a monthly basis, the hour by hour measurements made of air quality, emissions and meteorological parameters, and all other measurements made on a periodic basis, as part of the approved supplementary control system.

(iii) Submit a monthly summary indicating all places, dates, and times when National Ambient Air Quality Standards for sulfur oxides were exceeded and the concentrations of sulfur dioxide at such times.

(iv) Notify the Administrator of any violation of National Ambient Air Quality Standards within 24 hours of the occurrence of such violation.

(v) Submit a monthly summary report describing and analyzing how the supplementary control system was operated as related to the approved operations manual and how the system will be improved, if necessary, to prevent violations of the National Ambient Air Quality Standards for sulfur oxides or to prevent any other conditions which are not in accordance with the approved operational manual.

(13) (i) The owner or operator of the smelter subject to this paragraph shall participate in a research program to develop and apply constant emission reduction technology adequate to attain and maintain the national standards. Such program shall be carried out in accordance with the plan submitted pursuant to subparagraph (e) (3) (i) (f) of this section.

(ii) The owner or operator of the smelter subject to this paragraph shall submit annual reports on the progress of the research and development program required by subparagraph (e) (13) (i) of this section. Each report shall also include, but not be limited to, a description of the projects underway, information on the qualifications of the personnel involved, information on the funds and personnel that have been committed, and an estimated date for the installation of the constant emission reduction technology necessary to attain and maintain the National Ambient Air Quality Standards.

(14) (i) The owner or operator of the smelter subject to this paragraph shall comply with the compliance schedules specified below.

(a) Compliance schedule for meeting the emission reduction requirements of subparagraph (e) (4) of this section:

(1) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph--submit a final plan and schedule to the Administrator for meeting the requirements of subparagraph (4) of this paragraph.

(2) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph--let contracts or issue purchase order for emission control systems or process modifications or provide evidence that such contracts have been let.

(3) July 1, 1975. Initiate on-site construction or installation of emission control equipment or process change.

(4) July 1, 1965. Complete on-site construction or installation of constant emission control equipment or process change.

(5) January 1, 1977. Achieve final compliance with the requirements of subparagraph (4) of this paragraph.

(b) Compliance schedule for implementing a supplementary control system or other measures which meet the requirements of subparagraphs (e) (7), (9), (10), and (11) of this section.

(1) No later than sixty (60) days after approval to meet the requirements of this paragraph--submit to the Administrator a detailed schedule for establishment and implementation of the supplementary control system and other measures in accordance with subparagraph (e) (9) of this section.

(2) No later than ninety (90) days after approval to meet the requirements of this paragraph--let contracts or issue purchase orders, or provide evidence that such contracts have been let, for ambient air quality monitors, meteorological instruments, and other component parts necessary to establish a supplementary control system.

(3) No later than ninety (90) days after approval to meet the requirements of this paragraph--let contracts or issue purchase orders, or provide evidence that such contracts have been let, for any stack extensions or modifications of equipment approved pursuant to subparagraph (e) (3) of this section.

(4) November 1, 1975. Complete installation of air quality and emission monitors and meteorological equipment.

(5) January 1, 1976. Complete installation of any stack extensions or modifications of equipment approved pursuant to subparagraph (3) of this paragraph.

(6) May 1, 1976. Submit to the Administrator the comprehensive report on the supplementary control system required by subparagraph (e) (10) of this section, and submit to the Administrator for his approval the operational manual required by subparagraph (e) (11) of this section.

(7) January 1, 1977. The National Ambient Air Quality Standards for sulfur dioxide shall not be violated in the designated liability area.

(ii) Any owner or operator subject to the requirements of this subparagraph shall certify to the Administrator within five (5) days after the deadline for each increment of progress whether or not the required increment of progress has been met.

(iii) Notice must be given to the Administrator at least ten (10) days prior to conducting a performance test to afford him the opportunity to have an observer present.

(iv) If the source subject to this paragraph is presently in compliance with any of the increments of progress set forth in this subparagraph, the owner or operator of such source shall certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(v) The owner or operator of the smelter subject to this paragraph may submit to the Administrator proposed alternative compliance schedules. Each such proposed compliance schedule shall be submitted with the application submitted pursuant to subparagraph (e) (3) (i) of this section. No such compliance schedule may provide for final compliance after January 1, 1977. If approved by the Administrator, such schedule shall replace the compliance schedule set forth in this subparagraph.

(vi) Any such compliance schedule submitted to the Administrator shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the increments specified in the appropriate compliance shcedule set forth in subparagraphs (e) (14) (i) (a) and (b) of this section.

(15) (i) The Administrator shall annually review the supplementary control system and shall deny continued use of the supplementary control system if he determines that:

(a) The review indicates that constant emission control technology has become available or that other factors which may bear on the conditions for use of a supplementary control system have changed to the extent that continued use of the supplementary control system would no longer be deemed approvable within the intent of subparagraph (e) (3) of this section; or

(b) The source owner or operator has not demonstrated good faith efforts to follow the stated program for developing constant emission reduction procedures; or

(c) The source owner or operator has not developed and employed a control program that is effective in preventing violations of National Ambient Air Quality Standards.

(ii) Prior to denying the continued use of a supplementary control system prusuant to subparagraph (e) (15) (i) of this section, the Administrator shall notify the owner or operator of the smelter subject to this paragraph of his intent to deny such continued use, together with:

(a) The information and findings on which such intended denial is based.

(b) Notice of opportunity for such owner or operator to present, within thirty (30) days, additional information or arguments to the Administrator prior to his final determination.

(iii) The Administrator shall notify the owner or operator of the smelter subject to this paragraph of his final determination within thirty (30) days after the presentation of additional information or arguments, or thirty (30) days after the final date specified for such presentation if no presentation is made. If the continued use of the supplementary control system is denied, the final determination shall set forth the specific grounds for such denial.

(16) Upon denial of the continued use of a supplementary control system pursuant to subparagraph (e) (15) of this section all the requirements of paragraph (d) of this section shall be immediately applicable to the owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Region and compliance therewith shall be achieved in accordance with such schedule as the Administrator shall order.

(17) The owner or operator of the smelter subject to this paragraph shall be in violation of a requirement of an applicable implementation plan and subject to the penalties specified in Section 113 of the Clean Air Act if:

(i) an increment of the compliance schedules set forth in subparagraph (14) is not met by the date specified; or

(ii) the total sulfur dioxide concentration determined according to subparagraph (e) (6) (i) or (iii) of this section exceeds the emission limitation set forth in subparagraph (e) (4) (i) (a) of this section; or

(iii) the total sulfur dioxide emission rate determined according to subparagraph (e) (6) (ii) or (iv) of this section exceeds the emission limitation set forth in subparagraph (e) (4) (i) (b) of this section; or

(iv) any National Ambient Air Quality Standards for sulfur oxides are violated in the designated liability area; or

(v) operations of the supplementary control system are not conducted in accordance with the approved operational manual; or

(vi) such owner or operator fails to submit any of the information required by this paragraph.

(10.0) 52.1478 Review of New or Modified Indirect Sources

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.

(f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.

(g) Availability of existing and projected mass transit to service the site.

(h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.

(i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.

(b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(c) Expected passenger loadings at the airport.

(d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000 or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) (8) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(17.0) 52.1485 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Pollutant	Area Designations Class I ($\mu g/m^3$)	Class II ($\mu g/m^3$)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 2975; 40 FR 42012, Sept. 10, 1975)